

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

ENRIQUE RODRIGUEZ, AN  
INDIVIDUAL,

Appellant,

vs.

FIESTA PALMS, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
D/B/A PALMS CASINO RESORT,  
N/K/A FCH1, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,

Respondents.

Case No.: 72098

Electronically Filed  
Jul 31 2017 11:58 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from the Eighth Judicial District  
Court, The Honorable Joe Hardy  
Presiding

**APPELLANT'S APPENDIX**  
**(Volume 5, Bates Nos. 872–1004)**

**Marquis Aurbach Coffing**

Micah S. Echols, Esq.

Nevada Bar No. 8437

Adele V. Karoum, Esq.

Nevada Bar No. 11172

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

mechols@maclaw.com

akaroum@maclaw.com

*Attorneys for Appellant,*

*Enrique Rodriguez*

## **INDEX TO APPELLANT'S APPENDIX**

<b>DOCUMENT DESCRIPTION</b>	<b>LOCATION</b>
Complaint (filed 11/15/06)	Volume 1, Bates Nos. 1–10
Defendant Fiesta Palms, LLC dba Palms Casino Resort's Answer to Plaintiff's Complaint (filed 04/23/07)	Volume 1, Bates Nos. 11–19
Amended Complaint (filed 07/08/09)	Volume 1, Bates Nos. 20–29
Notice of Entry of Order [for Stipulation and Order to Continue Discovery and Trial] with Stipulation and Order (filed 11/25/09)	Volume 1, Bates Nos. 30–35
Plaintiff's Request for Trial Setting (filed 03/03/10)	Volume 1, Bates Nos. 36–38
Amended Order Setting Bench Trial (filed 05/11/10)	Volume 1, Bates Nos. 39–40
Notice of Entry of Order [Denying Defendant's Motion for Mistrial, or in the Alternative, Motion to Strike Plaintiff's Confidential Trial Brief] with Order (filed 03/14/11)	Volume 1, Bates Nos. 41–46
Notice of Entry of Order [Granting Plaintiff's Motion on the Issue of Liability] with Order (filed 03/14/11)	Volume 1, Bates Nos. 48–53
Notice of Entry of Order [Granting Plaintiff's Motion to Strike Defendant Fiesta Palms, LLC's Expert Witnesses] with Order (filed 03/14/11)	Volume 1, Bates Nos. 54–59
Notice of Entry of Order [Granting Plaintiff's Motion to Strike Defendant's Post Trial Brief] with Order (filed 03/14/11)	Volume 1, Bates Nos. 60–64
Notice of Entry of Verdict with Verdict (filed 03/17/11)	Volume 1, Bates Nos. 65–69

<b>DOCUMENT DESCRIPTION</b>	<b>LOCATION</b>
Notice of Entry of Judgment with Judgment (filed 04/15/11)	Volume 1, Bates Nos. 70–75
Notice of Entry of Findings of Fact and Conclusions of Law in Support of Verdict with Findings of Fact and Conclusions of Law and Verdict (filed 04/27/11)	Volume 1, Bates Nos. 76–83
Notice of Entry of Amended Judgment on the Verdict with Amended Judgment (filed 03/09/12)	Volume 1, Bates Nos. 84–89
Notice of Department Reassignment (filed 08/19/14)	Volume 1, Bates Nos. 90–91
Order Setting Hearing Further Proceedings Re: Supreme Court Reversal and Remand (filed 10/13/14)	Volume 1, Bates Nos. 92–93
Peremptory Challenge of Judge (filed 10/23/14)	Volume 1, Bates Nos. 94–96
Notice of Department Reassignment (filed 10/23/14)	Volume 1, Bates No. 97
Nevada Supreme Court Clerk’s Certificate and Judgment-Reversed and Remanded (filed 11/04/14)	Volume 1, Bates Nos. 98–117
Notice of Hearing: Benson, Bertoldo, Baker & Carter’s Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time with Motion (filed 11/24/14)	Volume 1, Bates Nos. 118–126
Notice of Non-Opposition to Benson, Bertoldo, Baker & Carter’s Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time (filed 12/02/14)	Volume 1, Bates Nos. 127–129
Order Scheduling Status Check: Trial Setting (filed 12/04/14)	Volume 1, Bates No. 130

<b>DOCUMENT DESCRIPTION</b>	<b>LOCATION</b>
Notice of Entry of Order Granting Benson, Bertoldo, Baker & Carter's Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time with Order (filed 12/09/14)	Volume 1, Bates Nos. 131–134
Minutes of January 9, 2015 and February 13, 2015 Status Check Hearings	Volume 1, Bates No. 135
Transcript of January 9, 2015 Status Check Hearing (filed 02/24/17)	Volume 1, Bates Nos. 136–141
Transcript of February 13, 2015 Status Check Hearing (filed 02/24/17)	Volume 1, Bates Nos. 142–148
Plaintiff's Peremptory Challenge of Judge (filed 02/19/15)	Volume 1, Bates Nos. 149–150
Notice of Department Reassignment (filed 02/19/15)	Volume 1, Bates Nos. 151–152
Minutes of March 25, 2015, April 1, 2015, and April 29, 2015 Status Check Hearings	Volume 1, Bates Nos. 153–154
Notice of Appearance (filed 05/12/15)	Volume 1, Bates Nos. 155–156
Minutes of May 13, 2015 Hearing—Judge Scotti Recusal	Volume 1, Bates No. 157
Notice of Department Reassignment (filed 05/18/15)	Volume 1, Bates Nos. 158–159
Order Setting Status Check (filed 06/08/15)	Volume 1, Bates Nos. 160–161
Minutes of June 15, 2015 Hearing on All Pending Motions	Volume 1, Bates Nos. 162–163
Transcript of June 15, 2015 Hearing on All Pending Motions (filed 02/21/17)	Volume 1, Bates Nos. 164–177

<b>DOCUMENT DESCRIPTION</b>	<b>LOCATION</b>
Fourth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call (filed 06/23/15)	Volume 1, Bates Nos. 178–180
June 25, 2015 Minute Order on Defendant’s Motion to Set Jury Trial	Volume 1, Bates No. 181
Notice of Entry of Order [Granting Defendant’s Motion to Set Jury Trial] (filed 07/23/15)	Volume 1, Bates Nos. 182–186
Minutes of September 28, 2015 Status Check Hearing	Volume 1, Bates No. 187
Transcript of September 28, 2015 Status Check Hearing (filed 02/21/17)	Volume 1, Bates Nos. 188–193
Fifth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call (filed 09/29/15)	Volume 1, Bates Nos. 194–196
Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time (filed 01/20/16)	Volume 1, Bates Nos. 197–202
Notice of Filing Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time with Motion (filed 01/20/16)	Volume 1, Bates Nos. 203–211
Minutes of February 1, 2016 Pre-Trial Conference	Volume 1, Bates No. 212
Transcript of February 1, 2016 Pre-Trial Conference (filed 02/21/17)	Volume 1, Bates Nos. 213–218
Sixth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call (filed 02/04/16)	Volume 1, Bates Nos. 219–221
February 9, 2016 Minute Order on Motion to Withdraw as Counsel of Record for Plaintiff	Volume 1, Bates No. 222
Notice of Filing Order Granting Withdrawal of Plaintiff’s Counsel with Order (filed 02/16/16)	Volume 1, Bates Nos. 223–227

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
Defendant, Fiesta Palms, LLC's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67 (filed 03/07/16)		Volume 1, Bates Nos. 228–235
Motion for Partial Summary Judgment Regarding Punitive Damages (filed 03/07/16)		Volume 2, Bates Nos. 236–248
<b>Exhibits to Motion for Partial Summary Judgment Regarding Punitive Damages</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Excerpted Deposition Transcript of Brandy L. Beavers (dated 04/17/09)	Volume 2, Bates Nos. 249–252
<b>B</b>	Excerpted Deposition Transcript of Sheri Long (dated 01/09/09)	Volume 2, Bates Nos. 253–257
<b>C</b>	Verdict (filed 03/14/11)	Volume 2, Bates Nos. 258–260
<b>D</b>	Amended Judgment on the Verdict (filed 02/15/12)	Volume 2, Bates Nos. 261–264
<b>E</b>	Second Amended or Supplemental Notice of Appeal (filed 03/13/12)	Volume 2, Bates Nos. 265–298
Defendant, Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Testimony Regarding Witnesses Vikki Kooinga and Sheri Long (filed 03/07/16)		Volume 2, Bates Nos. 299–317
<b>Exhibits to Defendant, Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Testimony Regarding Witnesses Vikki Kooinga and Sheri Long</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Partial Transcript of October 25, 2010 Bench Trial—Testimony of Vikki Kooinga (filed 11/18/10)	Volume 2, Bates Nos. 318–331

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
<b>Exhibits to Defendant, Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Testimony Regarding Witnesses Vikki Kooinga and Sheri Long (cont.)</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>B</b>	Excerpted Deposition Transcript of Vikki Kooinga (dated 01/09/09)	Volume 2, Bates Nos. 332–347
<b>C</b>	Partial Transcript of October 25, 2010 Bench Trial—Testimony of Sheri Long (filed 11/18/10)	Volume 2, Bates Nos. 348–375
<b>D</b>	Excerpted Deposition Transcript of Sheri Long (dated 01/09/09)	Volume 2, Bates Nos. 376–390
Defendant, Fiesta Palms, LLC's Motion in Limine No. 2 to Exclude Any Reference that Any Motion in Limine Has Been Filed: that the Court Has Ruled, or May Rule on Any Part of Outside the Presence of the Jury: or Suggesting or Implying to Potential Jurors During Voir Dire or Seated Jurors in Any Manner Whatsoever that Defendant Moved to Exclude Proof in Any Manner or that the Court Has Excluded Proof of Any Manner (filed 03/07/16)		Volume 2, Bates Nos. 391–397
Defendant, Fiesta Palms, LLC's Motion in Limine No. 3 to Exclude Any Monetary Damages of the Plaintiff Not Previously Disclosed or Based Upon Claims Not Previously Asserted (filed 03/07/16)		Volume 2, Bates Nos. 398–404
Defendant, Fiesta Palms, LLC's Motion in Limine No. 4 to Exclude Any Reference to Liability Insurance or Some Other Similar Contractor Policy Related to the Defendant (filed 03/07/16)		Volume 2, Bates Nos. 405–410
Defendant, Fiesta Palms, LLC's Motion in Limine No. 5 to Exclude Any Reference that the "Golden Rule" or that the Jury Panel or the Jury Should Do Unto Others as You Have Them Done Unto You (filed 03/07/16)		Volume 2, Bates Nos. 411–416

<b>DOCUMENT DESCRIPTION</b>	<b>LOCATION</b>
Defendant, Fiesta Palms, LLC's Motion in Limine No. 6 to Exclude All Side Bar Comments Made by Counsel During Depositions that Were Recorded on Videotape or Present in Deposition Transcripts (filed 03/07/16)	Volume 2, Bates Nos. 417–423
Defendant, Fiesta Palms, LLC's Motion in Limine No. 7 to Exclude Any Reference that the Attorneys for Defendant Specialize in the Handling of Insurance Cases (filed 03/07/16)	Volume 2, Bates Nos. 424–430
Defendant, Fiesta Palms, LLC's Motion in Limine No. 8 to Exclude Any Questions that Would Invade the Attorney/Client Privilege (filed 03/07/16)	Volume 2, Bates Nos. 431–436
Defendant, Fiesta Palms, LLC's Motion in Limine No. 9 to Exclude Any Statement or Implication that Defendant Sought to Delay This Trial (filed 03/07/16)	Volume 2, Bates Nos. 437–443
Defendant, Fiesta Palms, LLC's Motion in Limine No. 10 to Exclude Any Comments Regarding the Number of Attorneys Representing the Defendant (filed 03/07/16)	Volume 2, Bates Nos. 444–449
Defendant, Fiesta Palms, LLC's Motion in Limine No. 11 to Exclude Any Testimony Offered by Witnesses Who Have Not Already Been Disclosed and Identified Prior to the Close of Discovery (filed 03/07/16)	Volume 2, Bates Nos. 450–456
Defendant, Fiesta Palms, LLC's Motion in Limine No. 12 to Preclude Any Lay Person from Rendering Opinions as to Any Medical Aspects of the Plaintiffs, Specifically Diagnoses from Any Third-Parties as the Expertise Properly Lies with the Medical Provider and Beyond the Scope of a Lay Person's Experience (filed 03/07/16)	Volume 2, Bates Nos. 457–463
Defendant, Fiesta Palms, LLC's Motion in Limine No. 13 to Exclude Any Evidence or Claims of Mental, Psychological or Emotional Damages (filed 03/07/16)	Volume 2, Bates Nos. 464–470



<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
Defendant, Fiesta Palms, LLC's Motion in Limine No. 14 to Preclude Plaintiff's Treating Physicians and Medical Expert from Testifying at Trial (filed 03/07/16)		Volume 3, Bates Nos. 471–479
<b>Exhibits to Defendant, Fiesta Palms, LLC's Motion in Limine No. 14 to Preclude Plaintiff's Treating Physicians and Medical Expert from Testifying at Trial</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Plaintiff's 16.1 List of Documents and Witnesses (filed 09/24/07)	Volume 3, Bates Nos. 480–491
<b>B</b>	Plaintiff's Supplemental Expert Disclosure (dated 06/15/10)	Volume 3, Bates Nos. 492–495
Defendant, Fiesta Palms, LLC's Motion in Limine No. 15 to Preclude Plaintiff from Claiming Medical Specials Exceeding Amounts Disclosed by Plaintiff Pursuant to NRCP 16.1 (filed 03/07/16)		Volume 3, Bates Nos. 496–502
<b>Exhibits to Defendant, Fiesta Palms, LLC's Motion in Limine No. 15 to Preclude Plaintiff from Claiming Medical Specials Exceeding Amounts Disclosed by Plaintiff Pursuant to NRCP 16.1</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Plaintiff's 29th Supplemental Early Case Conference List of Documents and Witnesses (dated 10/04/10)	Volume 3, Bates Nos. 503–524
<b>B</b>	Plaintiff's Second Supplemental Pre-Trial Disclosures (dated 09/14/10)	Volume 3, Bates Nos. 525–534
<b>C</b>	Plaintiff's Confidential Trial Brief (dated 09/27/10)	Volume 3, Bates Nos. 535–556
<b>D</b>	Patient Account Information from Various Providers	Volume 3, Bates Nos. 557–709

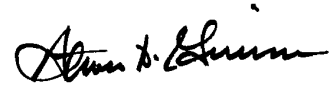
<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
Defendant, Fiesta Palms, LLC's Motion in Limine No. 16 to Preclude Plaintiff from Arguing that the Violation of Defendant's Internal Policies Constitutes Negligence Per Se (filed 03/07/16)		Volume 4, Bates Nos. 710–717
<b>Exhibit to Defendant, Fiesta Palms, LLC's Motion in Limine No. 16 to Preclude Plaintiff from Arguing that the Violation of Defendant's Internal Policies Constitutes Negligence Per Se</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Excerpted Deposition Transcript of Sheri Long (filed 01/09/09)	Volume 4, Bates Nos. 718–721
Minutes of April 7, 2016 Hearing on All Pending Motions		Volume 4, Bates Nos. 722–723
Transcript of April 7, 2016 Hearing on All Pending Motions (filed 02/21/17)		Volume 4, Bates Nos. 724–738
Defendant, Fiesta Palms, LLC's, Individual Pre-Trial Memorandum (filed 04/08/16)		Volume 4, Bates Nos. 739–752
Minutes of April 11, 2016 Pre-Trial Conference		Volume 4, Bates No. 753
Transcript of April 11, 2016 Pre-Trial Conference (filed 02/21/17)		Volume 4, Bates Nos. 754–757
Minutes of April 14, 2016 Hearing on All Pending Motions		Volume 4, Bates No. 758
Transcript of April 14, 2016 Hearing on All Pending Motions (filed 02/21/17)		Volume 4, Bates Nos. 759–768
Notice of Entry of Order [Granting Defendant, Fiesta Palms, LLC's Motions in Limine No[s]. 1–16 with Order (filed 04/15/16)		Volume 4, Bates Nos. 769–775

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
Notice of Entry of Order [Denying Defendant, Fiesta Palms, LLC's Motion for Partial Summary Judgment on Punitive Damages as Moot] with Order (filed 04/21/16)		Volume 4, Bates Nos. 776–779
Notice of Entry of Order [Granting Defendant, Fiesta Palms, LLC's Motion to Dismiss] with Order (filed 04/21/16)		Volume 4, Bates Nos. 780–784
Plaintiff's Substitution of Attorney (filed 10/14/16)		Volume 4, Bates Nos. 785–787
Motion for Relief—NRCP 60 (filed 10/14/16)		Volume 4, Bates Nos. 788–809
<b>Exhibits to Motion for Relief—NRCP 60</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>1</b>	Notice of Filing Order Granting Withdrawal of Plaintiff's Counsel with Order (filed 02/16/16)	Volume 4, Bates Nos. 810–817
<b>2</b>	Sixth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call (filed 02/04/16)	Volume 4, Bates Nos. 818–821
<b>3</b>	Minutes of February 1, 2016 Pre-Trial Conference	Volume 4, Bates Nos. 822–823
<b>4</b>	Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time with Notice of Filing (filed 01/20/16) 508	Volume 4, Bates Nos. 824–839
<b>5</b>	February 9, 2016 Minute Order on Motion to Withdraw as Counsel of Record for Plaintiff	Volume 4, Bates Nos. 840–841
<b>6</b>	Defendant, Fiesta Palms, LLC's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67 (filed 03/07/16)	Volume 4, Bates Nos. 842–850

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
<b>Exhibits to Motion for Relief—NRCP 60 (cont.)</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>7</b>	Order [Granting Defendant, Fiesta Palms, LLC’s Motions in Limine No[s]. 1–16] (filed 04/13/16)	Volume 4, Bates Nos. 851–856
<b>8</b>	Certificate of Service for Defendant, Fiesta Palms, LLC’s Motion in Limine No. 16 to Preclude Plaintiff from Arguing that the Violation of Defendant’s Internal Policies Constitutes Negligence Per Se (filed 03/07/16)	Volume 4, Bates Nos. 857–858
<b>9</b>	Order [Granting Defendant, Fiesta Palms, LLC’s Motion to Dismiss] (filed 04/20/16)	Volume 4, Bates Nos. 859–866
<b>10</b>	In-Home Supportive Services Provider Notification (dated 06/01/15)	Volume 4, Bates Nos. 867–871
Defendant, Fiesta Palms, LLC’s Opposition to Plaintiff’s Motion for Relief Under NRCP 60 (filed 10/26/16)		Volume 5, Bates Nos. 872–885
<b>Exhibits to Defendant, Fiesta Palms, LLC’s Opposition to Plaintiff’s Motion for Relief Under NRCP 60</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>A</b>	Notice of Filing Order Granting Withdrawal of Plaintiff’s Counsel with Order (filed 02/16/16)	Volume 5, Bates Nos. 886–890
<b>B</b>	Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time (filed 01/20/16)	Volume 5, Bates Nos. 891–897
<b>C</b>	Notice of Filing Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time with Motion (filed 01/20/16)	Volume 5, Bates Nos. 898–907
<b>D</b>	Minutes of February 1, 2016 Pre-Trial Conference	Volume 5, Bates Nos. 908–909

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
<b>Exhibits to Defendant, Fiesta Palms, LLC's Opposition to Plaintiff's Motion for Relief Under NRCP 60</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>E</b>	Sixth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call (filed 02/04/16)	Volume 5, Bates Nos. 910–913
<b>F</b>	Defendant, Fiesta Palms, LLC's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67 (filed 03/07/16)	Volume 5, Bates Nos. 914–922
<b>G</b>	Minutes of April 7, 2016 Hearing on All Pending Motions	Volume 5, Bates Nos. 923–925
<b>H</b>	Minutes of April 14, 2016 Hearing on All Pending Motions	Volume 5, Bates Nos. 926–927
<b>I</b>	Order [Granting Defendant, Fiesta Palms, LLC's Motion to Dismiss] (filed 04/20/16)	Volume 5, Bates Nos. 928–931
<b>J</b>	Notice of Entry of Order [Granting Defendant, Fiesta Palms, LLC's Motion to Dismiss] without Order (dated 04/21/16)	Volume 5, Bates Nos. 932–934
<b>K</b>	Mediation Settlement (dated 05/16/11)	Volume 5, Bates Nos. 935–937
Reply in Support of Plaintiff's Motion for NRCP 60 Relief (filed 11/10/16)		Volume 5, Bates Nos. 938–947
Minutes of November 15, 2016 Hearing on Plaintiff's Motion for Relief—NRCP 60		Volume 5, Bates No. 948
Transcript of November 15, 2016 Hearing on Plaintiff's Motion for Relief—NRCP 60 (filed 02/21/17)		Volume 5, Bates Nos. 949–962
Notice of Appearance (filed 12/20/16)		Volume 5, Bates Nos. 963–965

<b>DOCUMENT DESCRIPTION</b>		<b>LOCATION</b>
Notice of Entry of Order [Denying Plaintiff's Motion for NRCP 60 Relief] with Order (filed 12/28/16)		Volume 5, Bates Nos. 966–972
Notice of Appeal (filed 01/05/17)		Volume 5, Bates Nos. 973–975
<b>Exhibits to Notice of Appeal</b>		
<b>Exhibit</b>	<b>Document Description</b>	
<b>1</b>	Order [Denying Plaintiff's Motion for NRCP 60 Relief] (filed 12/23/16)	Volume 5, Bates Nos. 976–981
Case Appeal Statement (filed 01/05/17)		Volume 5, Bates Nos. 982–987
Docket of Case No. A531538		Volume 5, Bates Nos. 988–1004



CLERK OF THE COURT

**OPPS**

**LEW BRANDON, JR., ESQ.**

Nevada Bar No.: 5880

**JUSTIN W. SMERBER, ESQ.**

Nevada Bar No.: 10761

**MORAN BRANDON BENDAVID MORAN**

630 S. Fourth Street

Las Vegas, Nevada 89101

(702) 384-8424

(702) 384-6568 - *facsimile*

*l.brandon@moranlawfirm.com*

Attorneys for Defendant,

FIESTA PALMS, LLC d/b/a

PALMS CASINO RESORT

**ROBERT L. EISENBERG, ESQ.**

Nevada Bar No. 0950

**LEMONS, GRUNDY & EISENBERG**

6005 Plumas Street, Third Floor

Reno, Nevada 89519

Telephone: (775) 786-6868 / Facsimile: (775) 786-9716

*rle@lge.net*

Attorneys for Defendant,

FIESTA PALMS, LLC d/b/a

PALMS CASINO RESORT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

v.

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

Defendants.

CASE NO.: 06A531538

DEPT. NO.: XV

**DEFENDANT, FIESTA PALMS,  
LLC'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
RELIEF UNDER NRCP 60**



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

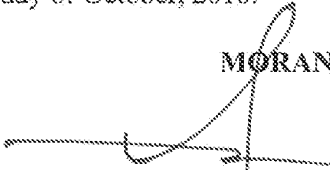
630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 COMES NOW, Defendant, FIESTA PALMS, LLC., by and through its undersigned  
2 attorneys, LEW BRANDON, JR., ESQ. and JUSTIN W. SMERBER, ESQ., of MORAN  
3 BRANDON BENDAVID MORAN, and ROBERT L. EISENBERG of LEMONS, GRUNDY &  
4 EISENBERG, hereby submit the following Opposition to Plaintiff's Motion for Relief under  
NRCP 60.

5 This Opposition is made and based upon the Points and Authorities attached hereto,  
6 along with all papers and pleadings on file herein, and oral arguments at the time of hearing.

7 DATED this 26 day of October, 2016.

8 MORAN BRANDON BENDAVID MORAN

9   
LEW BRANDON, JR., ESQ.

10 Nevada Bar No. 5880

JUSTIN W. SMERBER, ESQ.

11 Nevada Bar No.: 10761

630 S. Fourth Street

12 Las Vegas, Nevada 89101

Attorneys for Defendant,

FIESTA PALMS, LLC d/b/a

13 PALMS CASINO RESORT



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-3424  
FAX: (702) 384-6568



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**  
3 **FACTS AND PROCEDURAL HISTORY**

4 This matter involves an alleged incident that occurred at the Palms Casino Resort on  
5 November 22, 2004. *See Plaintiff's Complaint, on filed herein.* Plaintiff's Complaint alleges  
6 negligence on the part of Defendant, FIESTA PALMS, LLC d/b/a PALMS CASINO RESORT  
7 (hereinafter "Defendant") as owner of the premises. *See id.* The Plaintiff was allegedly injured  
8 while watching a televised football game at the casino when a "Palms girl" threw a promotional  
9 item into the crowd and an unknown patron unexpectedly dove for the item and struck Plaintiff.  
10 *See id.* Plaintiff has alleged injuries to his left knee, head, and neck. *See id.*

11 After the remand from the Nevada Supreme Court, Plaintiff was represented by various  
12 counsel, including Paul Padda, Esq. in this matter until February 12, 2016 when the Court  
13 granted Mr. Padda's Motion to Withdraw as Counsel. *See Order Granting Motion to Withdraw*  
14 *attached as Exhibit "A."* Mr. Padda's Motion to Withdraw was filed on January 20, 2016. *See*  
15 *Motion to Withdraw attached as Exhibit "B."* Contained within the Motion is a Declaration by  
16 Mr. Padda wherein he states,

17 With a trial date looming at the end of February 2016, I have explained to Mr.  
18 Rodriquez that I must withdraw and that due to our difference of opinion regarding this  
19 case, I can no longer effectively represent his interests.

20 *Id. at p. 3, ll. 20-22.* A notice of filing Motion was served on January 20, 2016. *See Notice*  
*attached as Exhibit "C."* Accordingly, per Mr. Padda's declaration, Plaintiff should have  
known of his February, 2016 trial date at that time.

On February 1, 2016, the Court held a Pretrial Conference in this matter. *See Minutes*  
*from February 1, 2016 attached as Exhibit "D."* At that conference, the Court noted that Mr.



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-8558

1 Padda had a pending Motion to Withdraw. *See id.* Defense counsel did not object to a trial  
2 continuance at that hearing, so as to allow additional time for Mr. Padda to withdraw, and for  
3 Plaintiff to do whatever he felt was necessary to prepare for trial. *See id.* Accordingly, the trial  
4 date was moved to April 11, 2016, and a new Trial Scheduling Order was issued. *See id.* On  
5 February 4, 2016, a new Trial Scheduling Order was issued, which was mailed directly to the  
6 Plaintiff, Enrique Rodriquez at his last known address of 6673 Yellowstone Dr., Riverside, CA  
92506. *See Sixth Amended Trial Order attached as Exhibit "E."*

7 On March 7, 2016, Defendant filed a Motion to Dismiss Plaintiff's case for failure to  
8 comply with NRCP 16.1 and EDCR 2.67. *See Motion to Dismiss attached as Exhibit "F."*  
9 This Motion was served on Plaintiff directly at his last known address. *See id.* In the Motion to  
10 Dismiss, it clearly explains that this case is scheduled for a May 2, 2016 Trial. *See id. at p. 4, ll.*  
11 3-8. Further, it informed Plaintiff of his obligations under NRCP 16.1 and EDCR 2.67. *See id.*  
12 *in general.* It is important to note, that as of March 10, 2016, Plaintiff still had time to rectify  
these deficiencies so his case would not be dismissed; however, Plaintiff took no action.

13 On April 7, 2016, there was a hearing on Defendant's Motions in Limine. Mr.  
14 Rodriquez appeared in person at that hearing. *See Minutes of 4/7/2016 attached as Exhibit "G."*  
15 Mr. Rodriquez's appearance at the hearing confirmed that he had been receiving the materials  
16 relative to his case. *See id.* Further, the Court admonished Mr. Rodriquez that there were  
17 pending dispositive motions filed in this case, and that he would need to take action if he wished  
to move forward. *See id.*

18 On April 14, 2016, the hearing on Defendant's Motion to Dismiss was held. Plaintiff  
19 attended the hearing in proper person, again confirming that he received the Motion. *See*  
20 *4/11/16 minutes attached as Exhibit "H."* Further, Plaintiff had failed to comply with NRCP



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-8568

1 16.1 or EDCR 2.67, and had further failed to file an Opposition to the Motion to Dismiss.  
2 Accordingly, the Court granted the Motion to Dismiss. *See Order Granting Motion to Dismiss*  
3 *attached as Exhibit "I."* The Notice of Entry of Order was mailed to Plaintiff on April 21,  
4 2016. *See Notice of Entry of Order attached as Exhibit "J."*

5 On October 14, 2016, Defendant received Plaintiff's Motion for Rule 60 Relief.  
6 Accordingly, Defendant now submits the following Opposition to Plaintiff's Motion.

7 **II.**  
8 **LEGAL ARGUMENT**

9 Plaintiff's Motion for Relief under Rule 60 should be denied. As will be discussed  
10 below, Plaintiff has repeatedly failed to pursue this claim. Even in the face of personal  
11 admonishments from this Court, Plaintiff continued to fail to take action, and thus has waived  
12 his rights to relief under Rule 60. Accordingly, Plaintiff should not be awarded relief under  
13 Rule 60 and the Court's Order granting Defendant's Motion to Dismiss should not be disturbed.

14 **A. Applying the standards of Rule 60 to the instant manner dictates that Plaintiff's**  
15 **Motion should be denied.**

16 NRCP 60 provides a method by which a litigant may obtain relief from a judgment or  
17 order. In the instant case, Plaintiff seeks relief under NRCP 60(b), which reads in part as  
18 follows:

19 (b) *Mistakes; inadvertence; excusable neglect; newly discovered evidence;*  
20 *fraud, etc.* On motion and upon such terms as are just, the court may relieve a  
party or a party's legal representative from a final judgment, order, or  
proceeding for the following reasons: (1) mistake, inadvertence, surprise, or  
excusable neglect; (2) newly discovered evidence which by due diligence could  
not have been discovered in time to move for a new trial under Rule 59(b); (3)  
fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation  
or other misconduct of an adverse party (4) the judgment is void; or, (5) the  
judgment has been satisfied, released, or discharged, or a prior judgment upon  
which it is based has been reversed or otherwise vacated, or it is no longer  
equitable that an injunction should have prospective application. The motion  
shall be made within a reasonable time, and for reasons (1), (2), and (3) not



MORAN BRANDT  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 more than 6 months after the proceeding was taken or the date that written  
2 notice of entry of the judgment or order was served. A motion under this  
subdivision (b) does not affect the finality of a judgment or suspend its  
operation. ....

3 Specifically, Plaintiff herein is seeking relief based on alleged mistake, inadvertence, and/or  
4 excusable neglect. However, a District Court has wide discretion in granting relief under Rule  
5 60(b) and, barring an abuse of discretion, its determination will not be disturbed. *Union*  
*Petrochemical Corp. v. Scott*, 96 Nev. 337, 338, 609 P.2d 323, 323 (1980).<sup>1</sup>

6 While each case depends upon its own facts, there are several criteria for evaluating a  
7 district court's exercise of discretion in granting or denying a motion for relief under Rule 60.  
8 *Yochum v. Davis*, 98 Nev. 484 (1982). Under Rule 60(b)(1), the district court may relieve a  
9 party from a final judgment on grounds of mistake, inadvertence, surprise, or excusable neglect.  
10 *See id.* The presence of the following factors indicates that Rule 60(b)(1) is satisfied: (1) a  
11 prompt application to remove the judgment; (2) the absence of an intent to delay the  
12 proceedings; (3) a lack of knowledge of procedural requirements; and (4) good faith. *See id.*  
13 Further, the purpose of Rule 60 is to relieve a party from the effects of some judgment or order  
14 made by the court in its regular proceedings; not to give a party some affirmative right which he  
15 has lost by his own conduct, but in regard to which the court has made no order whatever.  
16 *Killip v. Empire Mill Co.*, 2 Nev. 34 (1866). In applying the first three factors to the instant  
17 matter, it is clear that Plaintiff's instant Motion should be denied.

18 ///

19 ///

20 ///

<sup>1</sup> See also *Heard v. Fisher's & Cobb Sales & Distribs., Inc.*, 88 Nev. 566, 502 P.2d 104 (1972).



MORAN BRANDON  
BEN DAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-8568

1                   **1. Plaintiff did not make a prompt application to remove the judgement/order.**

2                   Plaintiff's argues that his Motion for Relief is timely because it was filed within six (6)  
3 months. However, the mere fact that the Motion was filed within six months does not make the  
4 Motion timely or "prompt." Rule 60(b) requires a motion to be filed "within a reasonable time,"  
5 **and** for reason number (1) [mistake, inadvertence, surprise or excusable neglect] "not more than  
6 6 months" after the challenged order or judgment. Thus, the six (6) month limit referenced in  
7 the rule is a maximum and does not guarantee that a motion filed within the six (6) month time  
8 period is necessarily timely, i.e., filed within a "reasonable time."

9                   To illustrate this point, Defendant directs the Court to *Union Petrochemical Corp.*,  
10 *supra*. In the *Union* case, the appellant had moved to set aside a judgment "almost six months  
11 after the judgment was entered." *See id. at 338, 609 P.2d at 323*. The Court in *Union* expressly  
12 rejected the appellant's argument that its motion was timely merely because it was submitted  
13 within six (6) months. *See id.* In doing so, the Court relied upon a series of cases that have held  
14 "want of diligence in seeking to set aside a judgment is ground enough for denial of such a  
15 motion." *See id. citing Lentz v. Boles, 84 Nev. 197, 438 P.2d 254 (1968); Hotel Last Frontier v.*  
16 *Frontier Prop., 79 Nev. 150, 380 P.2d 293 (1963)*. Additionally, the Court stated,

17                   To condone the actions of a party who has sat on its rights only to make a last-minute  
18 rush to set aside judgment would be to turn NRCP 60(b) into a device for delay rather  
19 than the means for relief from an oppressive judgment that it was intended to be.

20                   *Union, 96 Nev. at 339, 609 P.2d at 324.*

                  In the present matter, Plaintiff filed his Motion seeking Relief under Rule 60 five (5)  
months and three weeks after the Notice of Entry of Order was served for the order granting  
Defendant's Motion to Dismiss. Plaintiff's Motion for relief was filed five (5) months and  
twenty-nine (29) days after the Notice of Entry of Order was served on Defendant's Motions in



MORAN BRANDT  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 Limine. Accordingly, it is clear that, just as was done in the *Union* case, Plaintiff sat on his  
2 rights and then rushed to file his Motion at the last moment, just before the expiration of the six  
3 month period referenced in the rule.

4 Plaintiff argues that his delay in filing the instant Motion was because he could not  
5 obtain an attorney to take on this difficult case. However, there are several reasons why this  
6 should not relieve Plaintiff of his obligations to act promptly under NRCP 60. Initially, Plaintiff  
7 was served with Paul Padda, Esq.'s Motion to Withdraw on January 20, 2016. This means that  
8 Plaintiff has known he needs to obtain new counsel for the last ten (10) months; not just since  
9 the Motion to Dismiss was granted. Additionally, the Nevada Supreme Court has stated that  
10 fundamental rules governing the finality of judgments cannot be applied differently merely  
11 because a party not learned in the law is acting pro se. *Bonnell v. Lawrence*, 128 Nev. Adv. Op.  
37, 282 P.3d 712, 718 (2012) citing *Raymond J. German, Ltd. v. Brossart*, 2012 N.D. 89, 816  
N.W.2d 47, (N.D. 2012).

12 In considering the factual and procedural history of this matter, it cannot be said that the  
13 Plaintiff acted "promptly" to file the instant Motion. Plaintiff waited until the very eve of the  
14 expiration of the six month time period set forth in NRCP 60 to file the instant Motion.  
15 However, Plaintiff has misconstrued the six (6) month time period as a safe haven, when in  
16 reality it is not. Plaintiff has not acted promptly, he has acted with great and inexcusable delay,  
and his Motion should be denied.

## 17 **2. Plaintiff's actions have clearly delayed these proceedings.**

18 Plaintiff's brief argues that he has no intent to delay these proceedings, and the faster the  
19 subject orders are vacated, the faster he can attempt to get to trial again. Plaintiff also argues  
20 that there is no prejudice to the Defense because this has been a short six (6) month delay in a



MORAN BRANDT  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 case that has been proceeding for almost ten (10) years. However, the Defense disagrees with  
2 Plaintiff's assertions as set forth below.

3 In the instant matter, Plaintiff's case was dismissed for failure to comply with the  
4 Nevada Rules of Civil Procedure. The Nevada Supreme Court has held that the Nevada Rules  
5 of Civil Procedure are to be construed to secure the just, speedy, and inexpensive determination  
6 of every action. *Dougan v. Gustaveson*, 108 Nev. 517, 521, 835 P.2d 795, 798 (1992),  
7 *abrogated on other grounds by Arnold v. Kip*, 123 Nev. 410, 168 P.3d 1050 (2007). The  
8 timeliness provisions written into the rules will, as a general proposition, be enforced by the  
9 courts in order to promote the timely and efficient processing of cases. *See id.* In effect, these  
provisions recognize judicial commitment to the proposition that "justice delayed is justice  
denied." *See id. at 523, 835 P.2d 799.*

10 In the present matter, this case has been continued numerous times. This matter was  
11 remanded from the Nevada Supreme Court on November 4, 2014. *See Certificate of Remand*  
12 *on file herein.* Plaintiff's then Counsel, Steve Baker, Esq. filed to withdraw from the case on  
13 November 24, 2014. *See Motion to Withdraw on file herein.* The following events then took  
14 place:

- 15 • January 9, 2015 status check where Plaintiff requested a continuance to obtain counsel;
- 16 • March 25, 2015 status check where Plaintiff requested a continuance to obtain counsel;
- 17 • April 1, 2015 status check where Plaintiff requested a continuance to obtain counsel;
- 18 • April 8, 2015 status check where Plaintiff requested a continuance to obtain counsel;
- 19 • April 22, 2015 status check where Plaintiff requested a continuance to obtain counsel;
- 20 • April 29, 2015 status check where Plaintiff requested a continuance to obtain counsel;



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

- June 15, 2016 Paul Padda, Esq. officially appeared as counsel and a Trial date was set;
- September 28, 2015 the Trial date was moved 68 days due to a death in Defense counsel's family;
- February 1, 2016 the Trial date was moved to allow Plaintiff to obtain new counsel; and
- April 7, 2016 Plaintiff asked for six month extension and the Court denied same.

This case has been back in District Court upon remand from the Nevada Supreme Court for almost two years. There has been significant delay in this matter, and such delay has been largely due to Plaintiff's counsel's inability to obtain or retain counsel.

Further, Plaintiff alleges that financial hardship has caused a delay in his obtaining counsel to represent him. Again, Defendant reminds this Court that the parties attended a mediation following the initial jury trial. That mediation resulted in a partial settlement where Plaintiff received a non-refundable payment of \$1,000,000.00, which is to be offset against any future judgment in this matter. *See Settlement Statement attached as Exhibit "K."* Given his receiving a \$1,000,000.00 payment already in this case, the Defense does not see how Plaintiff can argue in good faith that he had financial barriers preventing the retention of counsel.

**3. Plaintiff clearly had knowledge of the procedural requirements for pursuing this case.**

Plaintiff's Motion argues that he, "a non-lawyer," has no knowledge of the procedural requirements that govern this case. The Defense takes factual and legal issue with this position. Initially, as argued above, the fact that Plaintiff was in proper person does not excuse him from complying with mandatory rules of procedure that apply to everyone. *See Bonnell, supra.* Accordingly, the fact that Plaintiff was without counsel does not mean that he per se did not have knowledge of the procedural requirements for pursuing this case.



MORAN, BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



1           Additionally, Plaintiff was well aware of his obligations in pursuing this case. Plaintiff  
2 without a doubt received Defendant's Motions in Limine and Motion to Dismiss. This is an  
3 undisputable fact, because Plaintiff attended the hearings on the Motions after receiving them.  
4 Further, the Motion to Dismiss was filed on March 7, 2016 in accordance with the Court's  
5 scheduling order mandating pretrial motions be filed 45 days before Trial. This Motion clearly  
6 told Plaintiff he was in violation of NRCP 16.1 and EDCR 2.67, which he could have rectified  
7 at that time. *See NRCP 16.1(a)(3) allowing pretrial disclosures 30 days before trial and*  
8 *EDCR 2.67 allowing a conference and the filing of a Joint Pretrial Memorandum within 15*  
9 *days of trial.*

10           Finally, this Honorable Court personally admonished Plaintiff at the hearing on April 7,  
11 2016 regarding his need to pursue this action. Plaintiff was specifically and personally  
12 instructed by this Court that there were pending Dispositive Motions and if he wanted to  
13 pursue this case, he needed to take action. In other words, the Court essentially admonished  
14 Plaintiff that he needed to obey mandatory rules. Still, Plaintiff did nothing to oppose the  
15 pending Motions, or to comply with NRCP 16.1 or EDCR 2.67. Plaintiff clearly had  
16 knowledge of the procedural requirements of pursuing his claim and he simply failed to act.  
17 Such actions do not constitute mistake, inadvertence of excusable neglect; such actions simply  
18 constitute neglect. *See McClellan v. David, 84 Nev. 283, 287, 439 P.2d 673, 676 (1968)*  
19 *(holding that before a default judgment may be set aside under NRCP 60(b)(1), the party so*  
20 *moving must show to the court that his neglect was excusable).*

**B. Plaintiff is not entitled to relief under Rule 60 as a matter of public policy.**

          The last argument contained in Plaintiff's Motion is a public policy argument. Plaintiff  
requests relief based upon the public policy that favors matters being decided on their merits.



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 While the defense does not ignore the policy favoring having matters decided on their merits,  
2 there is also a large body of law that governs the specific issue before this court, *i.e.* relief under  
3 Rule 60. A review of that body of law, as set forth above, clearly demonstrates that Plaintiff is  
4 not entitled to relief. If one were able to simply overturn final orders and judgments of the  
5 Court by arguing that their matter should be heard on the merits, then there would be no need  
6 for the numerous statutes, rules and cases that make upon our jurisprudence in Nevada. There  
7 would be no reason for the Nevada Supreme Court to adopt dismissal provisions in the Rules of  
8 Civil Procedures such as those set forth in NRCP 16.1 and NRCP 37. There would be no reason  
9 for the Nevada Supreme Court to issue opinions affirming the dismissal of cases and the denial  
10 of relief under Rule 60, such as in *Union*. Instead, there would only be trials on the merits.

11 However, the State of Nevada has clearly defined rules of procedure. In the rules of  
12 procedure, there are mandatory procedural timelines and safeguards that ensure the just, speedy,  
13 and inexpensive determination of every action, for every litigant. *Dougan v. Gustaveson*, 108  
14 Nev. 517 (1992). Those rules have been interpreted and upheld by the Nevada Supreme Court  
15 on numerous occasions. *See Id.* Accordingly, one cannot circumvent these rules by merely  
16 crying public policy.

17 The Plaintiff in this action has shown a blatant disregard for the rules of procedure.  
18 Even in the face of numerous opportunities to correct his deficiencies, Plaintiff has refused to  
19 take action. Then upon having his matter dismissed for failure to act, Plaintiff again did nothing  
20 to rectify the situation until nearly six months after his case was dismissed and Defendant's  
Motions in Limine were granted. Such are not the actions of a party who is diligent and entitled  
to relief under Rule 60. Such are not the actions of a person who is entitled to a trial on the



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 merits. To the contrary, such are the actions of a party that has waived his rights and his action  
2 should remain dismissed.

3 **IV.**  
4 **CONCLUSION**

5 Based upon the foregoing, Defendant, FIESTA PALMS, LLC D/B/A PALMS CASINO  
6 RESORT respectfully requests that this Court deny Plaintiff's Motion for Relief under Rule 60.

7 DATED this 16 day of October, 2016.

8 **MORAN BRANDON BENDAVID MORAN**

9 **LEW BRANDON, JR., ESQ.**

10 Nevada Bar No. 5880

11 **JUSTIN W. SMERBER, ESQ.**

12 Nevada Bar No.: 10761

13 630 S. Fourth Street

14 Las Vegas, Nevada 89101

15 Attorneys for Defendant,

16 FIESTA PALMS, LLC d/b/a

17 PALMS CASINO RESORT



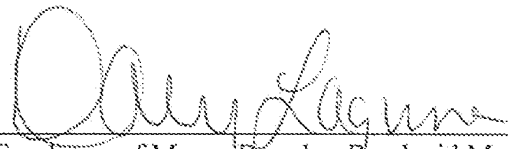
MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1  
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I hereby certify that on the 26 day of October, 2016, I  
4 served the foregoing **DEFENDANT, FIESTA PALMS, LLC'S OPPOSITION TO**  
5 **PLAINTIFF'S MOTION FOR RULE 60 RELIEF** via the Court's electronic filing and  
6 service systems ("Wiznet") to all parties on the current service list.

7 **JOEL G. SELIK, ESQ.**  
8 Nevada Bar No. 402  
9 10191 Park Run Drive, Suite 110  
10 Las Vegas, Nevada 89145  
11 702-243-1930  
12 Facsimile -760-479-0081  
13 Joel@SelikLaw.com  
14 Attorney for Plaintiff,  
15 ENRIQUE RODRIGUEZ

16   
17 An Employee of Moran Brandon Bendavid Moran



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6588

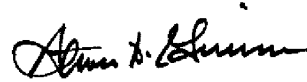
EXHIBIT "A"

EXHIBIT "A"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

1 **NOTC**

Paul S. Padda, Esq. (NV Bar #10417)

2 Email: psp@paulpadda.com

PAUL PADDA LAW

3 4240 West Flamingo Road, Suite 220

Las Vegas, Nevada 89103

4 Tel: (702) 366-1888

Fax: (702) 366-1940

5 www.paulpadda.com

6 Attorney for Plaintiff

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

9 **ENRIQUE RODRIGUEZ,**

10 **Plaintiff,**

11 **v.**

12 **FIESTA PALMS, LLC, et. al.,**

13 **Defendants.**

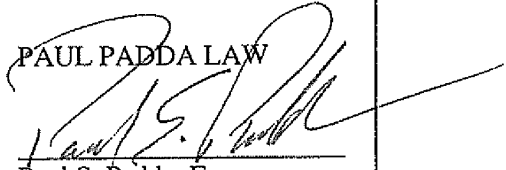
Case No. A-06-531538-C

Dept. No. XV (15)

14 **NOTICE OF FILING ORDER GRANTING**  
15 **WITHDRAWAL OF PLAINTIFF'S COUNSEL**

16 Attached herewith as Exhibit A is an Order dated February 12, 2016 granting the  
17 withdrawal of Paul S. Padda, Esq. and all those associated with his firm, from further  
18 representation of Plaintiff in this matter.

19 PAUL PADDA LAW

20   
21 Paul S. Padda, Esq.

22 Counsel for Plaintiff

23 Dated: February 16, 2016  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CERTIFICATE OF SERVICE

Pursuant to Nevada Rule of Civil Procedure 5(b), the undersigned hereby certifies that on February 16, 2016 a copy of "NOTICE OF FILING ORDER GRANTING WITHDRAWAL OF PLAINTIFF'S COUNSEL" was served via the Court's electronic filing system ("Wiznet") upon all counsel of record. In addition, a copy was mailed (and emailed) to Plaintiff via United States Mail (first-class, postage prepaid) addressed as follows:

Enrique Rodriguez  
6673 Yellowstone Drive  
Riverside, California 92506  
Email: bernieofcalif@aol.com



Paul S. Padda, Esq.

1 **ORD**

2 Paul S. Padda, Esq. (NV Bar #10417)  
3 Email: psp@paulpaddalaw.com  
4 PAUL PADDA LAW, PLLC  
5 4240 West Flamingo Road, Suite 220  
6 Las Vegas, Nevada 89103  
7 Tel: (702) 366-1888  
8 Fax: (702) 366-1940  
9 www.paulpaddalaw.com

10 Attorney for Plaintiff

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

13 **ENRIQUE RODRIGUEZ,**

14 **Plaintiff,**

15 **v.**

16 **FIESTA PALMS, LLC, et. al.,**

17 **Defendants.**

18 **Case No. A-06-531538-C**

19 **Dept. No. XV (15)**

20 **ORDER**

21 On January 20, 2016, counsel for Plaintiff, Paul S. Padda, Esq., on behalf of himself and  
22 all others associated with his law firm on this matter, filed a motion to withdraw from this case.  
23 The Court having considered the motion and the lack of opposition thereto, it is hereby ordered  
24 that, pursuant to Eighth Judicial District Court Rule 7.40(b)(2)(i), the motion is granted. All  
25 further communications shall be directed to Plaintiff at the following address below (last known  
26 address supplied to Plaintiff's counsel):

27 Address: Enrique Rodriguez  
28 6673 Yellowstone Drive  
29 Riverside, California 92506

30 Telephone: (951) 751-1440

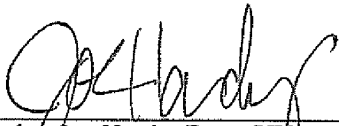
31 Email: bernieofcalif@aol.com

32 FEB 10 2016



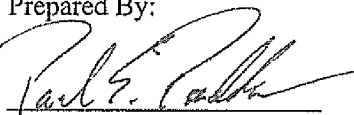
1 Upon receipt of an executed copy of this Order, Plaintiff's counsel is directed to file notice of  
2 this Order and serve a copy upon Plaintiff at the address above.

3 IT IS SO ORDERED:

4   
5 \_\_\_\_\_  
6 Judge Joe Hardy, Dept. XV  
7 Clark County District Court  
8 Las Vegas, Nevada

Dated: February 12, 2016

8 Prepared By:

9 

10 Paul S. Padda, Esq.  
11 PAUL PADDA LAW, PLLC  
12 4240 West Flamingo Road, #220  
13 Las Vegas, Nevada 89103  
14 Tele: (702) 366-1888  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

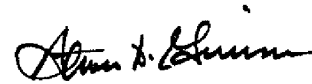
EXHIBIT "B"

EXHIBIT "B"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

MWCN  
Paul S. Padda, Esq. (NV Bar #10417)  
Email: psp@paulpadda.com  
PAUL PADDA LAW  
4240 West Flamingo Road, Suite 220  
Las Vegas, Nevada 89103  
Tel: (702) 366-1888  
Fax: (702) 366-1940  
www.paulpadda.com

Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**ENRIQUE RODRIGUEZ,**

**Plaintiff,**

**v.**

**FIESTA PALMS, LLC, et. al.,**

**Defendants.**

Case No. A-06-531538-C

Dept. No. XV (15)

**MOTION TO WITHDRAW AS COUNSEL OF RECORD  
FOR PLAINTIFF ON ORDER SHORTENING TIME**

Pursuant to Eighth Judicial District Rule ("EDCR") 7.40(b)(2), undersigned counsel and his law firm hereby respectfully request permission to withdraw as counsel of record for Plaintiff Enrique Rodriguez. In support of this request, undersigned counsel relies upon the memorandum of points and authorities filed herewith, the declaration of Paul S. Padda, Esq., all papers on file

. . .

. . .

. . .

. . .

. . .

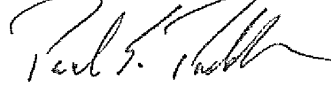
. . .

. . .

JAN 19 2016

1 in this litigation and any oral argument the Court may entertain at the time of hearing in this  
2 matter.

3 Respectfully submitted,

4 

5 Paul S. Padda, Esq.  
6 PAUL PADDA LAW  
7 4240 West Flamingo Road, #220  
8 Las Vegas, Nevada 89103  
9 Tel: (702) 366-1888  
10 Fax: (702) 366-1940  
11 Web: paulpadda.com

12 Attorney for Plaintiff

13 Dated: January 19, 2015

14 **NOTICE OF HEARING ON ORDER SHORTENING TIME**

15 All interested parties in this matter will take note that the "MOTION TO WITHDRAW  
16 AS COUNSEL OF RECORD FOR PLAINTIFF ON ORDER SHORTENING TIME" will be  
17 heard before the Court (Department XV), on order shortening time, on the following date and  
18 time:

19 Date: 2-9-16

20 Time: in chambers

21 

22 Judge Joe Hardy  
23 Clark County District Court

24 Dated: January 19th, 2016

1                                   **DECLARATION OF PAUL S. PADDA**

2           I, Paul S. Padda, do hereby declare the following based upon my personal knowledge:

3           1.       I am currently listed as counsel of record for Plaintiff in Enrique Rodriguez v.  
4 Fiesta Palms, LLC A-06-531538-C, a case pending before this Court. I am licensed to practice  
5 law in the State of Nevada.

6           2.       I entered an appearance in this case on May 12, 2015.

7           3.       At the outset of entering an appearance in this case, I explained to Mr. Rodriguez  
8 certain financial constraints that would have to be overcome in order for me to remain in this  
9 case. As the owner of a small law firm, I am limited by the amount I can financially “invest” in  
10 the prosecution of certain cases.

11          4.       After the Court granted Defendant’s motion for a jury trial, I explained to Mr.  
12 Rodriguez the additional and significant financial costs that would be needed to present a case to  
13 a jury that differ from a mere bench trial. Mr. Rodriguez requested that I not withdraw from his  
14 case until he could locate other counsel.

15          5.       On or about December 7, 2015, I met with Mr. Rodriguez and explained, once  
16 again, that due to financial limitations I could no longer remain in this case. Mr. Rodriguez again  
17 requested I not withdraw and notified me during our meeting that another attorney would be  
18 “stepping in” to replace me. During this same meeting, Mr. Rodriguez and I had a difference of  
19 opinion on how best to proceed in this litigation.

20          6.       To date, I have not been contacted by other counsel. With a trial date looming at  
21 the end of February 2016, I have explained to Mr. Rodriguez that I must withdraw and that due to  
22 our difference of opinion regarding this case, I can no longer effectively represent his interests.

23          7.       Counsel for Defendant, Justin Smerber, Esq., has indicated that he does not  
24 oppose this motion and that he will consent to an extension of the trial date to permit Mr.  
25 Rodriguez to locate other counsel or have the attorney Mr. Rodriguez referenced during our  
26

1 December 7, 2016 meeting enter an appearance in this case.

2 8. Should the Court permit withdrawal of undersigned counsel, Mr. Rodriguez  
3 can be served with notice of further proceedings at the following address:


4 Enrique Rodriguez  
5 6673 Yellowstone Drive  
6 Riverside, California 92506

6 Mr. Rodriguez can also be contacted by telephone at (951) 751-1440.

7 9. Mr. Rodriguez will experience no material or adverse prejudice by undersigned  
8 counsel's withdrawal since he previously acknowledged in a December 18, 2015 communication  
9 to undersigned counsel his understanding that this motion would eventually be filed. However,  
10 in fairness to Mr. Rodriguez, undersigned counsel respectfully requests that the Court continue  
11 the trial date to a reasonable time for Mr. Rodriguez to locate replacement counsel. Opposing  
12 counsel, Justin Smerber, Esq., has indicated that he does not oppose this request.

13 10. Requiring undersigned counsel to remain in this case would be both extremely  
14 burdensome to counsel and, more importantly given the disagreements over how to proceed,  
15 adverse to Mr. Rodriguez's best interests.

16 I declare, under penalty of perjury, that the foregoing is true and correct to the  
17 best of my knowledge.

18   
19 Paul S. Padda, Esq.

20 Dated: January 19, 2016

1                                    **MEMORANDUM OF POINTS AND AUTHORITIES**

2                                    **ARGUMENT**

3                    **I.       Legal Standard**

4                    EDCR Rule 7.40(b)(2) provides this Court with authority to permit an attorney to  
5                    withdraw from a matter pending before the Court if the attorney's application for withdrawal  
6                    includes an affidavit or declaration which contains the client's address, or last known address, "at  
7                    which the client may be served with notice of further proceedings taken in the case" and also  
8                    provides the telephone number, or last known telephone number, at which the client may be  
9                    reached. The rule requires that the attorney "must serve a copy of the application upon the  
10                  client" and other interested parties.

11                  **II.       "Good Cause" Exists To Permit Counsel's Withdrawal From This Case**

12                  Nevada Rule of Professional Conduct ("NRPC") 1.16, entitled "Declining or Terminating  
13                  Representation," provides that an attorney may seek withdrawal from a matter where "other good  
14                  cause for withdrawal exists." *See* NRPC 1.16(b)(7).

15                  As shown in the attached declaration of undersigned counsel, Paul S. Padda, Esq.,  
16                  withdrawal is appropriate in this case because it is in keeping with Mr. Rodriguez's  
17                  understanding of what would eventually occur, appropriate given Mr. Rodriguez's statements to  
18                  undersigned counsel that he was in the process of "interviewing" other attorneys signaling his  
19                  intent to retain other counsel and necessary given the difference of opinion regarding how best to  
20                  proceed in this matter. As the Plaintiff in this case, Mr. Rodriguez should be permitted to  
21                  proceed with counsel of his own choosing. Withdrawal will not have any material or adverse  
22                  effect on Mr. Rodriguez' interests, especially given opposing counsel's consent to a continuation  
23                  of the trial date.

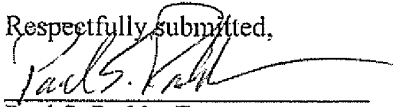
24                  . . .

25                  . . .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CONCLUSION

In light of the foregoing, the Court should permit undersigned counsel to withdraw from further representation of Plaintiff in this matter.

Respectfully submitted,  
  
Paul S. Padda, Esq.  
PAUL PADDA LAW  
4240 West Flamingo Road, #220  
Las Vegas, Nevada 89103  
Tele: (702) 366-1888  
Fax: (702) 366-1940  
Web: caplawyers.com

Attorney for Plaintiff

Dated: January 19, 2016



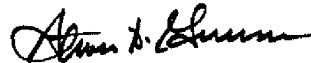
EXHIBIT "C"

EXHIBIT "C"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

1 **NOTC**  
2 Paul S. Padda, Esq. (NV Bar #10417)  
3 Email: psp@paulpadda.com  
4 PAUL PADDA LAW  
5 4240 West Flamingo Road, Suite 220  
6 Las Vegas, Nevada 89103  
7 Tel: (702) 366-1888  
8 Fax: (702) 366-1940  
9 www.paulpadda.com

10 Attorney for Plaintiff

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

13 **ENRIQUE RODRIGUEZ,**

14 **Plaintiff,**

Case No. A-06-531538-C

15 **v.**

Dept. No. XV (15)

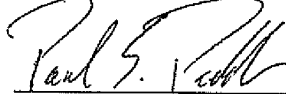
16 **FIESTA PALMS, LLC, et. al.,**

17 **Defendants.**

18 **NOTICE OF FILING MOTION TO WITHDRAW**  
19 **AS COUNSEL OF RECORD FOR PLAINTIFF**  
20 **ON ORDER SHORTENING TIME**

21 Attached herewith as Exhibit A is Plaintiff's counsel's "Motion To Withdraw As Counsel  
22 Of Record For Plaintiff On Order Shortening Time." The motion was filed on January 20, 2016.

23 PAUL PADDA LAW



Paul S. Padda, Esq.

Counsel for Plaintiff

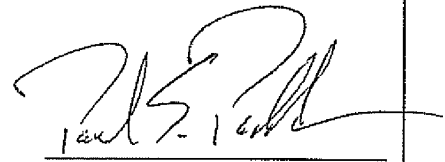
Dated: January 20, 2016

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CERTIFICATE OF SERVICE

Pursuant to Nevada Rule of Civil Procedure 5(b), the undersigned hereby certifies that on January 20, 2016 a copy of "NOTICE OF FILING MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PLAINTIFF ON ORDER SHORTENING TIME" was served via the Court's electronic filing system ("Wiznet") upon all counsel of record. In addition, a copy was mailed to Plaintiff via United States Mail (first-class, postage prepaid) addressed as follows:

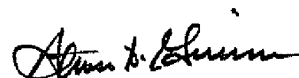
Enrique Rodriguez  
6673 Yellowstone Drive  
Riverside, California 92506



Paul S. Padda, Esq.

# **EXHIBIT A**

# **EXHIBIT A**



CLERK OF THE COURT

1 MWCN  
Paul S. Padda, Esq. (NV Bar #10417)  
2 Email: psp@paulpadda.com  
PAUL PADDA LAW  
3 4240 West Flamingo Road, Suite 220  
Las Vegas, Nevada 89103  
4 Tel: (702) 366-1888  
Fax: (702) 366-1940  
5 www.paulpadda.com

6 Attorney for Plaintiff

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

9 **ENRIQUE RODRIGUEZ,**

10 **Plaintiff,**

11 **v.**

12 **FIESTA PALMS, LLC, et. al.,**

13 **Defendants.**

Case No. A-06-531538-C

Dept. No. XV (15)

14 **MOTION TO WITHDRAW AS COUNSEL OF RECORD**  
15 **FOR PLAINTIFF ON ORDER SHORTENING TIME**

16 Pursuant to Eighth Judicial District Rule ("EDCR") 7.40(b)(2), undersigned counsel and  
17 his law firm hereby respectfully request permission to withdraw as counsel of record for Plaintiff  
18 Enrique Rodriguez. In support of this request, undersigned counsel relies upon the memorandum  
19 of points and authorities filed herewith, the declaration of Paul S. Padda, Esq., all papers on file

20 . . .

21 . . .

22 . . .

23 . . .

24 . . .

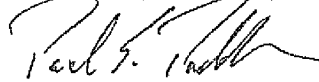
25 . . .

26 . . .

JAN 19 2016

1 in this litigation and any oral argument the Court may entertain at the time of hearing in this  
2 matter.

3 Respectfully submitted,

4 

5 Paul S. Padda, Esq.  
6 PAUL PADDALAW  
7 4240 West Flamingo Road, #220  
8 Las Vegas, Nevada 89103  
9 Tel: (702) 366-1888  
10 Fax: (702) 366-1940  
11 Web: paulpadda.com

12 Attorney for Plaintiff

13 Dated: January 19, 2015

14 **NOTICE OF HEARING ON ORDER SHORTENING TIME**

15 All interested parties in this matter will take note that the "MOTION TO WITHDRAW  
16 AS COUNSEL OF RECORD FOR PLAINTIFF ON ORDER SHORTENING TIME" will be  
17 heard before the Court (Department XV), on order shortening time, on the following date and  
18 time:

19 Date: 2-9-16

20 Time: in chambers

21 

22 Judge Joe Hardy  
23 Clark County District Court

24 Dated: January 19th, 2016

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

2

3  
4  
5

6

7  
8  
9  
10

11  
12  
13  
14

15  
16  
17  
18  
19

20  
21  
22

23  
24  
25

1 December 7, 2016 meeting enter an appearance in this case.

2 8. Should the Court permit withdrawal of undersigned counsel, Mr. Rodriguez  
3 can be served with notice of further proceedings at the following address:


4 Enrique Rodriguez  
5 6673 Yellowstone Drive  
6 Riverside, California 92506

7 Mr. Rodriguez can also be contacted by telephone at (951) 751-1440.

8 9. Mr. Rodriguez will experience no material or adverse prejudice by undersigned  
9 counsel's withdrawal since he previously acknowledged in a December 18, 2015 communication  
10 to undersigned counsel his understanding that this motion would eventually be filed. However,  
11 in fairness to Mr. Rodriguez, undersigned counsel respectfully requests that the Court continue  
12 the trial date to a reasonable time for Mr. Rodriguez to locate replacement counsel. Opposing  
13 counsel, Justin Smerber, Esq., has indicated that he does not oppose this request.

14 10. Requiring undersigned counsel to remain in this case would be both extremely  
15 burdensome to counsel and, more importantly given the disagreements over how to proceed,  
16 adverse to Mr. Rodriguez's best interests.

17 I declare, under penalty of perjury, that the foregoing is true and correct to the  
18 best of my knowledge.

19   
20 Paul S. Padda, Esq.

21 Dated: January 19, 2016



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

**I. Legal Standard**

EDCR Rule 7.40(b)(2) provides this Court with authority to permit an attorney to withdraw from a matter pending before the Court if the attorney’s application for withdrawal includes an affidavit or declaration which contains the client’s address, or last known address, “at which the client may be served with notice of further proceedings taken in the case” and also provides the telephone number, or last known telephone number, at which the client may be reached. The rule requires that the attorney “must serve a copy of the application upon the client” and other interested parties.

**II. “Good Cause” Exists To Permit Counsel’s Withdrawal From This Case**

Nevada Rule of Professional Conduct (“NRPC”) 1.16, entitled “Declining or Terminating Representation,” provides that an attorney may seek withdrawal from a matter where “other good cause for withdrawal exists.” *See* NRPC 1.16(b)(7).

As shown in the attached declaration of undersigned counsel, Paul S. Padda, Esq., withdrawal is appropriate in this case because it is in keeping with Mr. Rodriguez’s understanding of what would eventually occur, appropriate given Mr. Rodriguez’s statements to undersigned counsel that he was in the process of “interviewing” other attorneys signaling his intent to retain other counsel and necessary given the difference of opinion regarding how best to proceed in this matter. As the Plaintiff in this case, Mr. Rodriguez should be permitted to proceed with counsel of his own choosing. Withdrawal will not have any material or adverse effect on Mr. Rodriguez’ interests, especially given opposing counsel’s consent to a continuation of the trial date.

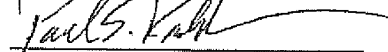
. . .  
. . .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CONCLUSION

In light of the foregoing, the Court should permit undersigned counsel to withdraw from further representation of Plaintiff in this matter.

Respectfully submitted,



Paul S. Padda, Esq.  
PAUL PADDA LAW  
4240 West Flamingo Road, #220  
Las Vegas, Nevada 89103  
Tele: (702) 366-1888  
Fax: (702) 366-1940  
Web: caplawyers.com

Attorney for Plaintiff

Dated: January 19, 2016

# EXHIBIT "D"

# EXHIBIT "D"



MORAN BRANDON  
BEN DAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

## REGISTER OF ACTIONS

CASE NO. 06A531538

Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant (s)	§ § § § § § §	Case Type: Negligence - Premises Liability Date Filed: 11/15/2006 Location: Department 15 Cross-Reference Case Number: A531538 Supreme Court No.: 59630
---	---------------------------------	---

### PARTY INFORMATION

#### Lead Attorneys

Defendant Fiesta Palms LLC

Lewis W. Brandon, Jr.  
*Retained*  
 702-384-6568(W)

Doing Palms Casino Resort  
 Business As

Lewis W. Brandon, Jr.  
*Retained*  
 702-384-6568(W)

Plaintiff Rodriguez, Enrique

Joel Gary Selik  
*Retained*  
 702-243-1930(W)

### EVENTS & ORDERS OF THE COURT

02/01/2016 Pre Trial Conference (8:30 AM) (Judicial Officer Hardy, Joe)

#### Minutes

02/01/2016 8:30 AM

- Mr. Smerber indicated he had made several attempts to contact Plaintiff's counsel, and was informed by Mr. Padda's office that Mr. Padda was in a meeting. Additionally, Mr. Smerber noted Plaintiff's pending Motion to Withdraw as Counsel, informing the Court that Defendant had refrained from pre-trial Motion practice due to the pending Motion to Withdraw. Mr. Smerber advised that he was amenable to rescheduling the trial date; however, Defendant would not be waiving the three-year rule regarding a remand from the Supreme Court, nor would Defendant be waiving the five-year rule. Court noted for the record that, if Plaintiff felt the need to protect their interests in terms of complying with applicable timeliness rules, they could file the appropriate Motion with the Court. COURT ORDERED trial date VACATED and RESET; Court to issue a new Trial Order. 4/11/16 8:30 AM PRE TRIAL CONFERENCE 4/27/16 8:30 AM CALENDAR CALL 5/2/16 10:30 AM JURY TRIAL

Parties Present

[Return to Register of Actions](#)

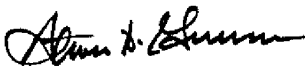
EXHIBIT "E"

EXHIBIT "E"



MORAN BRANDON  
BEN DAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

1 OSCJ

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 ENRIQUE RODRIGUEZ,

7 Plaintiff(s),

8 v.

9 FIESTA PALMS LLC, et al.,

10 Defendant(s),

) CASE NO.: A531538

) DEPT NO.: XV

) **SIXTH AMENDED ORDER**  
) **SETTING CIVIL JURY TRIAL,**  
) **PRE-TRIAL CONFERENCE AND**  
) **CALENDAR CALL**

11  
12 IT IS HEREBY ORDERED that:

13 A. The above entitled case is set to be tried to a jury on a five week stack to begin  
14 Monday, May 2, 2016, at 10:30 a.m.

15 B. A Pre-Trial Conference with the designated trial attorney and/or parties in proper  
16 person will be held on Monday, April 11, 2016, at 8:30 a.m.

17 C. A calendar call will be held on Wednesday April 27, 2016, at 8:30 a.m. Parties must  
18 bring to calendar call all items listed in EDCR 2.69. At the time of the calendar call, counsel will set  
19 an appointment with the Court Clerk. The appointment must be at least one day before the first day  
20 of trial.

21 D. The Pre-Trial Memorandum must be filed no later than Friday, April 8, 2016, at  
22 4:00 p.m., with a courtesy copy delivered to Department XV. All parties (attorneys and parties in  
23 proper person), **MUST** comply with **ALL REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69.

24 E. All motions in limine must be in writing and filed no later than Monday, March 7,  
25 2016, and must comply with all the requirements set forth in EDCR 2.47, particularly EDCR  
26 2.47(b), which requires the lawyers to personally consult with one another by way of face-to-face  
27 meeting or via telephone conference before a motion in limine can be filed. If a personal or  
28


1 telephone conference was not possible, the attorney's declaration and/or affidavit attached to the  
2 motion in limine shall set forth the reasons. Should a party and/or his or her attorney fail to abide by  
3 the requirements of EDCR 2.47(b) before filing his or her motion in limine, such motion will not be  
4 heard by the Court. **Orders shortening time will not be signed except in extreme emergencies.**  
5 **An upcoming trial date is not an extreme emergency.**

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

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

14 Finally, if parties are interested in a settlement conference conducted by a District Court  
15 Judge sitting as a Mediator, please contact Judge Wiese's Judicial Executive Assistant at 702-671-  
16 3633.

17 DATED: February 3, 2016

18   
19 \_\_\_\_\_  
20 JOE HARDY, DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date e-filed, the foregoing was e-served, e-mailed, or a copy of the above document was placed in the attorney's folder in the Clerk's Office, or mailed to the following:

Paul Padda, Esq.  
[psp@paulpadda.com](mailto:psp@paulpadda.com)

Enrique Rodriguez  
6673 Yellowstone Dr.  
Riverside, CA 92506

Lewis Brandon, Jr. Esq.  
[l.brandon@moranlawfirm.com](mailto:l.brandon@moranlawfirm.com)

  
\_\_\_\_\_  
Judicial Executive Assistant



# EXHIBIT "F"

# EXHIBIT "F"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 **MDSM**  
2 **LEW BRANDON, JR., ESQ.**  
Nevada Bar No.: 5880  
3 **JUSTIN W. SMERBER, ESQ.**  
Nevada Bar No.: 10761  
4 **MORAN BRANDON BENDAVID MORAN**  
630 S. Fourth Street  
5 Las Vegas, Nevada 89101  
(702) 384-8424  
(702) 384-6568 - *facsimile*  
6 *l.brandon@moranlawfirm.com*  
Attorneys for Defendant,  
7 FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

8 **ROBERT L. EISENBERG, ESQ.**  
Nevada Bar No. 0950  
9 **LEMONS, GRUNDY & EISENBERG**  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Telephone: (775) 786-6868 / Facsimile: (775) 786-9716  
10 *rle@lge.net*  
Attorneys for Defendant,  
11 FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

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

13 ENRIQUE RODRIGUEZ, an individual,

14 Plaintiff,

15 v.

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

18 Defendants.

CASE NO.: 06A531538  
DEPT. NO.: XV

**DEFENDANT, FIESTA PALMS,**  
**LLC'S MOTION TO DISMISS**  
**PURSUANT TO NRCP 16.1 AND**  
**EDCR 2.67**



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

20 630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 348-6568

1 **DEFENDANT, FIESTA PALMS, LLC'S MOTION TO DISMISS PURSUANT TO NRCP**  
2 **16.1 AND EDCR 2.67**

3 COMES NOW, Defendant, FIESTA PALMS, LLC., by and through its undersigned  
4 attorneys, LEW BRANDON, JR., ESQ. and JUSTIN W. SMERBER, ESQ., of MORAN  
5 BRANDON BENDAVID MORAN, and ROBERT L. EISENBERG of LEMONS, GRUNDY &  
6 EISENBERG, hereby submit the following Motion to Dismiss Plaintiff's Complaint for failure  
7 to Comply with NRCP 16.1 and EDCR 2.67.

8 This Motion is made and based upon the Points and Authorities attached hereto, along  
9 with all papers and pleadings on file herein, and oral arguments at the time of hearing.

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

11 **MORAN BRANDON BENDAVID MORAN**

12 /s/ Justin W. Smerber, Esq.

13 **LEW BRANDON, JR., ESQ.**

14 Nevada Bar No. 5880

15 **JUSTIN W. SMERBER, ESQ.**

16 Nevada Bar No.: 10761

17 630 S. Fourth Street

18 Las Vegas, Nevada 89101

19 Attorneys for Defendant,

20 FIESTA PALMS, LLC d/b/a

21 PALMS CASINO RESORT

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///



28 MORAN BRANDON  
29 BENDAVID MORAN  
30 ATTORNEYS AT LAW

31 630 SOUTH 4TH STREET  
32 LAS VEGAS, NEVADA 89101  
33 PHONE (702) 384-8424  
34 FAX: (702) 348-6568

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**NOTICE OF MOTION**

TO: ALL PARTIES;

YOU, AND EACH OF YOU, will please take notice that the foregoing  
**DEFENDANT'S MOTION TO DISMISS** has been set for Hearing on the \_\_\_\_ day of  
\_\_\_\_\_, 2016 at the hour of \_\_\_\_:\_\_\_\_.m., before the Eighth Judicial District Court in  
Dept. XV.

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

**MORAN BRANDON BENDAVID MORAN**

/s/ Justin W. Smerber, Esq.  
**LEW BRANDON, JR., ESQ.**  
Nevada Bar No. 5880  
**JUSTIN W. SMERBER, ESQ.**  
Nevada Bar No. 10761  
630 S. Fourth Street  
Las Vegas, Nevada 89101  
Attorneys for Defendant,  
FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I**  
**FACTS AND PROCEDURAL HISTORY**

This matter involves an alleged incident that occurred at the Palms Casino Resort on  
November 22, 2004. *See Plaintiff's Complaint, on filed herein.* Plaintiff's Complaint alleges  
negligence on the part of Defendant, FIESTA PALMS, LLC d/b/a PALMS CASINO RESORT  
(hereinafter "Defendant") as owner of the premises. *See id.* The Plaintiff was allegedly injured  
while watching a televised football game at the casino when a "Palms girl" threw a promotional



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE (702) 384-8424  
FAX: (702) 348-6568

1 item into the crowd and an unknown patron unexpectedly dove for the item and struck Plaintiff.  
2 *See id.* Plaintiff has alleged injuries to his left knee, head, and neck. *See id.*

3 This matter is currently set for a civil jury trial to commence on May 2, 2016. *See*  
4 *Scheduling Order on file herein.* The Court has set a final Pre-Trial Conference in accordance  
5 with EDCR 2.68, which is set to occur on April 11, 2016. *See id.* A previous Pre-Trial  
6 Conference was held in this matter on February 1, 2016, as this matter was previously set for  
7 trial on February 22, 2016. However, Plaintiff did not attend the February 1, 2016 Pre-Trial  
8 Conference mandated by this Court. *See Minutes from 2/1/16 Pre-Trial Conference on file*  
9 *herein.*

10 As of March 7, 2016, Plaintiff has not noticed or initiated a Pre-Trial Conference  
11 between the parties in accordance with EDCR 2.67. Further, Plaintiff has not made his NRCP  
12 16.1(a)(3) disclosures. Accordingly, Defendant now moves to dismiss Plaintiff's complaint in  
13 accordance with EDCR 2.67, EDCR 2.68, NRCP 16.1 and NRCP 37.

## 14 **II.**

### 15 **LEGAL ARGUMENT**

16 Plaintiff's Complaint should be dismissed. Plaintiff has failed to comply with various  
17 procedural rules, which warrant the sanction of dismissal. Specifically, Plaintiff has failed to  
18 comply with EDCR 2.67, EDCR 2.68, NRCP 16 and NRCP 16.1. Accordingly, dismissal of  
19 Plaintiff's Complaint is appropriate under EDCR 2.67, EDCR 2.68 and NRCP 37.

#### 20 **A. Plaintiff's Complaint should be dismissed pursuant to EDCR 2.67.**

21 EDCR 2.67 governs the meetings of counsel that are to be held before trial. The rule  
22 requires a Plaintiff to initiate and designate a meeting place within Clark County, Nevada where  
23 the trial counsel can meet and exchange their witness lists and exhibits. As a result of this



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE (702) 384-8424  
FAX: (702) 348-6568

1 conference, the parties are to create and file a Joint Pre-Trial Memorandum. The rule  
2 specifically states that a person that is not represented by an attorney must still comply with the  
3 requirements of the rule. Finally, a failure to comply with the rule may result in a judgment of  
4 dismissal.

5 In the present matter, Plaintiff has not initiated an EDCR 2.67 conference. The trial date  
6 in this matter has been moved numerous times. Even at the time of the last Pre-Trial Conference  
7 set by the Court, Plaintiff had not initiated or held an EDCR 2.67 conference. Further, this  
8 matter is now less than two months away from its current trial setting and no EDCR 2.67  
9 Conference has been initiated by Plaintiff. Defense counsel contacted Plaintiff on March 7,  
2016 for purposes of discussing EDCR 2.67; however, Plaintiff did not answer Defense  
Counsel's call.

10 Plaintiff's actions are causing further delay of these proceedings, and prejudice to the  
11 Defense. A Joint Pre-Trial Memorandum cannot be created because Plaintiff has not initiated  
12 an EDCR 2.67 Conference. Further, the Plaintiff has not provided the Defendant with its Trial  
13 Exhibits or Witness Lists, which is the very purpose of EDCR 2.67. Finally, because of  
14 Plaintiff's failure to comply with the rule, Defense counsel has not been able to consider and  
15 formulate appropriate objections to Plaintiff's exhibits and witnesses as mandated by EDCR  
16 2.67(b)(5). Accordingly, Defendant requests that Plaintiff's Complaint be dismissed in  
accordance with EDCR 2.67(c).

17 **B. Plaintiff's Complaint should be dismissed pursuant to NRCP 16 and EDCR 2.68.**

18 Both NRCP 16 and EDCR 2.68 grant the Court authority to conduct a pre-trial conference  
19 with counsel. These conferences are designed to allow the parties to discuss and address  
20 various matters pertinent to an efficient and productive trial. Further, both rules mandate that



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 348-6568

1 designated trial counsel who are knowledgeable must attend the Pre-Trial Conference. A  
2 failure to attend the Pre-Trial Conference may result in a judgment of dismissal under EDCR  
3 2.68 and NRCP 16(f).

4 In the present matter, a Pre-Trial Conference was held in this matter on February 1, 2016.  
5 Plaintiff did not attend the Pre-Trial Conference, nor did any designated trial counsel for  
6 Plaintiff attend the hearing. Defense counsel was present at the hearing; however, an effective  
7 conference cannot be held with one party absent.

8 Defendant does concede that a new Pre-Trial Conference has been set by the Court. Further,  
9 Defense counsel did concede to a continuance of the trial date at the February 1, 2016 Pre-Trial  
10 Conference. However, the new Pre-Trial Conference was only set after Plaintiff failed to attend  
11 the February 1, 2016 conference. Accordingly, should Plaintiff fail to attend and participate in  
12 the new Pre-Trial Conference set for April 11, 2016, this Honorable Court should enter a  
13 judgment of dismissal.

14 **C. Plaintiff's Complaint should be dismissed as a sanction under NRCP 37 due to**  
15 **Plaintiff's failure to Comply with NRCP 16.1(a)(3).**

16 NRCP 16.1(a)(3) requires a party to make Pre-Trial Disclosures. Specifically, the rule  
17 provides as follows:

18 **(3) Pretrial Disclosures.** In addition to the disclosures required by Rule  
19 16.1(a)(1) and (2), a party must provide to other parties the following  
20 information regarding the evidence that it may present at trial, including  
21 impeachment and rebuttal evidence:

22 (A) The name and, if not previously provided, the address and telephone  
23 number of each witness, separately identifying those whom the party expects to  
24 present, those witnesses who have been subpoenaed for trial, and those whom  
25 the party may call if the need arises;

26 (B) The designation of those witnesses whose testimony is expected to be  
27 presented by means of a deposition and, if not taken steno graphically, a  
28 transcript of the pertinent portions of the deposition testimony; and



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 348-6568

1 (C) An appropriate identification of each document or other exhibit, including  
2 summaries of other evidence, separately identifying those which the party  
expects to offer and those which the party may offer if the need arises.

3 Unless otherwise directed by the court, these disclosures must be made at least  
4 30 days before trial. Within 14 days thereafter, unless a different time is  
5 specified by the court, a party may serve a list disclosing (i) any objections to  
6 the use under Rule 32(a) of a deposition designated by another party under  
subparagraph (B), and (ii) any objection, together with the grounds therefor, that  
7 may be made to the admissibility of materials identified under subparagraph  
(C). Objections not so disclosed, other than objections under NRS 48.025 and  
8 48.035, shall be deemed waived unless excused by the court for good cause  
shown.

9 Further, NRCP 16.1(e) addresses a party's failure to comply with the provisions of  
10 NRCP 16.1. The rule reads as follows:

11 3) If an attorney fails to reasonably comply with any provision of this rule, or if  
an attorney or a party fails to comply with an order entered pursuant to  
12 subsection (d) of this rule, the court, upon motion or upon its own initiative,  
shall impose upon a party or a party's attorney, or both, appropriate sanctions in  
13 regard to the failure(s) as are just, including the following:

14 (A) Any of the sanctions available pursuant to Rule 37(b)(2) and Rule 37(f);

15 (B) An order prohibiting the use of any witness, document or tangible thing  
16 which should have been disclosed, produced, exhibited, or exchanged pursuant  
to Rule 16.1(a).

17 NRCP 37(b)(2)(C) provides that a Court may dismiss an action for failure to comply  
18 with the provisions of NRCP 16.1. Finally, a District Court's decision to dismiss a case for a  
19 failure to comply with the provisions of NRCP 16.1 is governed by an "abuse of discretion"  
20 standard. *See Arnold v. Kip, 123 Nev. 410, 414 (2007).*

21 In the present matter, Plaintiff has not made any Pre-Trial Disclosures in accordance  
22 with NRCP 16.1(a)(3). This has prevented Defendant from evaluating Plaintiff's disclosures  
and making appropriate objections under NRCP 16.1(a)(3). Accordingly, Plaintiff should be



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 348-6568



1 sanctioned under NRCP 37 for failing to comply with the rules, and his Complaint should be  
2 dismissed.

3 **IV.**  
**CONCLUSION**

4 Based upon the foregoing, Defendant, FIESTA PALMS, LLC D/B/A PALMS CASINO  
5 RESORT respectfully requests that this Court Dismiss Plaintiff's Complaint pursuant to EDCR  
6 2.67, EDCR 2.68, NRCP 16 and NRCP 16.1.

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

8 **MORAN BRANDON BENDAVID MORAN**

9 /s/ Justin W. Smerber, Esq.  
10 **LEW BRANDON, JR., ESQ.**  
Nevada Bar No. 5880  
11 **JUSTIN W. SMERBER, ESQ.**  
Nevada Bar No.: 10761  
630 S. Fourth Street  
Las Vegas, Nevada 89101  
Attorneys for Defendant,  
FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

12 **CERTIFICATE OF SERVICE**

13 Pursuant to NRCP 5(b), I hereby certify that on the 7<sup>TH</sup> day of March, 2016, I served the  
14 foregoing **DEFENDANT, FIESTA PALMS, LLC'S MOTION TO DISMISS** via the Court's  
15 electronic filing and service systems ("Wiznet") to all parties on the current service list.

16 **VIA U.S. MAIL**

17 **ENRIQUE RODRIGUEZ**  
6673 YELLOWSTONE DRIVE  
18 RIVERSIDE, CALIFORNIA 92506  
TELEPHONE: 951-751-1440  
19 Plaintiff, In Proper Person

/s/ Angelina M. Martinez  
An Employee of Moran Brandon Bendavid Moran



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

20 630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 348-6568

EXHIBIT "G"

EXHIBIT "G"



MORAN BRANDON  
BEN DAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

## REGISTER OF ACTIONS

CASE NO. 06A531538

Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant  
(s)

Case Type: Negligence - Premises  
Liability  
Date Filed: 11/15/2006  
Location: Department 15  
Cross-Reference Case Number: A531538  
Supreme Court No.: 59630

### PARTY INFORMATION

#### Lead Attorneys

Defendant Fiesta Palms LLC

~~Lewis W Brandon, Jr.~~  
*Retained*  
702-384-6568(W)

Doing Palms Casino Resort  
Business As

~~Lewis W Brandon, Jr.~~  
*Retained*  
702-384-6568(W)

Plaintiff Rodriguez, Enrique

Joel Gary Selik  
*Retained*  
702-243-1930(W)

### EVENTS & ORDERS OF THE COURT

04/07/2016 All Pending Motions (9:00 AM) (Judicial Officer Hardy, Joe)

#### Minutes

04/07/2016 9:00 AM

- DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 1 TO EXCLUDE TESTIMONY REGARDING WITNESSES VIKKI KOOINGA AND SHERI LONG...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 5 TO EXCLUDE ANY REFERENCE THAT THE "GOLDEN RULE" OR THAT THE JURY PANEL OR THE JURY SHOULD DO UNTO OTHERS AS YOU HAVE THEM DONE UNTO YOU...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 3 TO EXCLUDE ANY MONETARY DAMAGES OF THE PLAINTIFF NOT PREVIOUSLY DISCLOSED OR BASED UPON CLAIMS NOT PREVIOUSLY ASSERTED...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 2 TO EXCLUDE ANY REFERENCE THAT ANY MOTION IN LIMINE HAS BEEN FILED; THAT THE COURT HAS RULED, OR MAY RULE ON ANY PART OF OUTSIDE THE PRESENCE OF THE JURY; OR SUGGESTING OR IMPLYING TO POTENTIAL JURORS DURING VOIR DIRE OR SEATED JURORS IN ANY MANNER WHATSOEVER THAT DEFENDANT MOVED TO EXCLUDE PROOF IN ANY MANNER OR THAT THE COURT HAS EXCLUDED PROOF OF ANY MANNER...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 4 TO EXCLUDE ANY REFERENCE TO LIABILITY INSURANCE OR SOME OTHER SIMILAR CONTRACTOR POLICY RELATED TO THE DEFENDANT...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 6 TO EXCLUDE ALL SIDE BAR COMMENTS MADE BY COUNSEL DURING DEPOSITIONS THAT WERE RECORDED ON VIDEOTAPE OR PRESENT IN DEPOSITION TRANSCRIPTS...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 8 TO EXCLUDE ANY QUESTIONS THAT WOULD INVADE THE ATTORNEY/CLIENT PRIVILEGE...DEFENDANT, FIESTA

PALMS, LLC'S MOTION IN LIMINE NO. 9 TO EXCLUDE ANY STATEMENT OR IMPLICATION THAT DEFENDANT SOUGHT TO DELAY THIS TRIAL...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 10 TO EXCLUDE ANY COMMENTS REGARDING THE NUMBER OF ATTORNEYS REPRESENTING THE DEFENDANT...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 7 TO EXCLUDE ANY REFERENCE THAT THE ATTORNEYS FOR DEFENDANT SPECIALIZE IN THE HANDLING OF INSURANCE CASES...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 11 TO EXCLUDE ANY TESTIMONY OFFERED BY WITNESSES WHO HAVE NOT ALREADY BEEN DISCLOSED AND IDENTIFIED PRIOR TO THE CLOSE OF DISCOVERY...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 12 TO PRECLUDE ANY LAY PERSON FROM RENDERING OPINIONS AS TO ANY MEDICAL ASPECTS OF THE PLAINTIFFS, SPECIFICALLY DIAGNOSES AND CLAIMS OF DIAGNOSES FROM ANY THIRD-PARTIES AS THE EXPERTISE PROPERLY LIES WITH THE MEDICAL PROVIDER AND BEYOND THE SCOPE OF A LAY PERSON'S EXPERIENCE...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 13 TO EXCLUDE ANY EVIDENCE OF CLAIMS OF MENTAL, PSYCHOLOGICAL OR EMOTIONAL DAMAGES...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 14 TO PRECLUDE PLAINTIFF'S TREATING PHYSICIANS AND MEDICAL EXPERT FROM TESTIFYING AT TRIAL...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 15 TO PRECLUDE PLAINTIFF FROM CLAIMING MEDICAL SPECIALS EXCEEDING AMOUNTS DISCLOSED BY PLAINTIFF PURSUANT TO NRCP 16.1...DEFENDANT, FIESTA PALMS, LLC'S MOTION IN LIMINE NO. 16 TO PRECLUDE PLAINTIFF FROM ARGUING THAT THE VIOLATION OF DEFENDANT'S INTERNAL POLICIES CONSTITUTES NEGLIGENCE PER SE Court noted that Oppositions had not been filed for any of the instant Motions. Mr. Smerber indicated he had received no Oppositions to any of the Motions, and requested they be granted pursuant to EDCR 2.20(e). Mr. Rodriguez requested a six month extension in order to seek new counsel, noting that Mr. Padda withdrew as his counsel in February. COURT ORDERED Mr. Rodriguez's request for an extension was hereby DENIED, FINDING that, although Plaintiff was proceeding in Proper Person, that did not excuse him from properly following the rules of civil procedure. COURT FURTHER ORDERED, ALL Motions in Limine GRANTED as unopposed, pursuant to EDCR 2.20(e), FINDING that all of the Motions were properly served on the Plaintiff at his last known address. Mr. Smerber to prepare one Order for all of the Motions in Limine and submit it directly to the Court. The Court advised Plaintiff to properly pursue the case if he wished to move forward, and to review the pending Motion for Summary Judgment and determine whether he wished to file an Opposition.

[Parties Present](#)

[Return to Register of Actions](#)

EXHIBIT "H"

EXHIBIT "H"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW  
630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

## REGISTER OF ACTIONS

CASE NO. 06A531538

Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant  
(s)

Case Type: Negligence - Premises  
Liability  
Date Filed: 11/15/2006  
Location: Department 15  
Cross-Reference Case  
Number: A531538  
Supreme Court No.: 59630

### PARTY INFORMATION

#### Lead Attorneys

Defendant Fiesta Palms LLC

Lewis-W-Brandon, Jr.  
*Retained*  
702-384-6566(W)

Doing Palms Casino Resort  
Business As

Lewis-W-Brandon, Jr.  
*Retained*  
702-384-6566(W)

Plaintiff Rodriguez, Enrique

Joel Gary Selik  
*Retained*  
702-243-1930(W)

### EVENTS & ORDERS OF THE COURT

04/14/2016 All Pending Motions (9:00 AM) (Judicial Officer Hardy, Joe)

#### Minutes

04/14/2016 9:00 AM

- DEFENDANT, FIESTA PALMS, LLC'S MOTION TO DISMISS PURSUANT TO NRCP 16.1 AND EDCR 2.67. DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING PUNITIVE DAMAGES Mr. J. Smerber, Esq., appearing on behalf of Fiesta Palms, LLC. Court noted no opposition or response had been filed. Plff. requested a continuance, stating he had spoken with local counsel whom were to appear today. Mr. Smerber stated he had no contact with any attorney pertaining to this matter and there being no opposition requested the motion be granted. Court stated its findings and ORDERED, Deft.'s Motion to Dismiss GRANTED; Deft.'s Motion for Partial Summary Judgment DENIED WITHOUT PREJUDICE due to the Motion to Dismiss being granted. Mr. Smerber stated due to the facts discussed Plff. is self-represented since notice of withdraw and the motions needed to be responded to and service was clearly made, the issue with counsel are insufficient in this action to preclude action in the rules. Mr. Smerber to submit an order to the Court.

[Parties Present](#)

[Return to Register of Actions](#)

# EXHIBIT "I"

# EXHIBIT "I"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE (702) 384-8424  
FAX: (702) 384-6568

ORIGINAL

Electronically Filed  
04/20/2016 02:18:48 PM

*Alma D. Lohman*

CLERK OF THE COURT

1 **ORDG**

2 **LEW BRANDON, JR., ESQ.**

Nevada Bar No. 5880

3 **JUSTIN W. SMERBER, ESQ.**

Nevada Bar No. 10761

4 **MORAN BRANDON BENDAVID MORAN**

630 S. Fourth Street

Las Vegas, Nevada 89101

(702) 384-8424

(702) 384-6568 - *facsimile*

5 [lbrandon@moranlawfirm.com](mailto:lbrandon@moranlawfirm.com)

Attorneys for Defendant,

6 **FIESTA PALMS, LLC d/b/a**

**PALMS CASINO RESORT**

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

9 **ENRIQUE RODRIGUEZ, an individual,**

10 **Plaintiff,**

**CASE NO.: 06A531538**

**DEPT. NO.: XV**

11 **v.**

12 **FIESTA PALMS, L.L.C., a Nevada**

Limited Liability Company, d/b/a

13 **PALMS CASINO RESORT, BRANDY**

**L. BEAVERS, individually, DOES I**

through X, and

14 **Defendants**

15 **ORDER GRANTING DEFENDANT, FIESTA PALMS, LLC'S MOTION TO DISMISS**

16 Defendant; FIESTA PALMS, LLC's Motion to Dismiss having come before this  
17 Honorable Court on April 14, 2016 at 9:00 a.m., JUSTIN W. SMERBER, ESQ. of MORAN  
18 BRANDON BENDAVID MORAN having appeared on behalf of FIESTA PALMS, LLC, and  
19 ENRIQUE RODRIGUEZ having appeared in Proper Person, the Court having reviewed the  
20 Motion, the papers and pleadings on file herein, and for good cause appearing orders as follows:

☐ Summary Judgment  
☐ Stipulated Judgment  
☐ Default Judgment  
☐ Judgment of Arbitration  
☐ Voluntary Dismissal  
☐ Involuntary Dismissal  
☐ Stipulated Dismissal  
☒ Motion to Dismiss by Parties



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

APR 14 2016



1           **IT IS ORDERED THAT DEFENDANT'S MOTION TO DISMISS PURSUANT**  
2 **TO NRCP 16.1 AND EDCR 2.67 IS GRANTED WITHOUT PREJUDICE.** Defendant's  
3 Motion was unopposed and therefore deemed meritorious pursuant to EDCR 2.20(e). Further,  
4 the Court notes that while Plaintiff is in Proper Person, Plaintiff is required to comply with  
5 NRCP 16.1, EDCR 2.67 and EDCR 2.68. Plaintiff has failed to comply with any of these rules.  
6 Additionally, Plaintiff was placed on notice of his obligation to comply with these rules when  
7 Defendant filed and served the Plaintiff with the instant Motion on March 8, 2016. A  
8 Certificate of Mailing for this Motion was filed with the Court on March 8, 2016 showing  
9 service upon Plaintiff at his last known address. Plaintiff had ample time upon the filing of  
10 Defendant's Motion to remedy his non-compliance with these rules; however, made no effort to  
11 do so. Further, the Court personally admonished Plaintiff on April 7, 2016 that the instant  
12 Motion had been filed and was pending. Plaintiff took no action to comply with NRCP 16.1,  
13 EDCR 2.67, EDCR 2.68 or to file an opposition to this Motion, despite his being repeatedly  
14 informed of his obligations to pursue his claims and comply with the rules of procedure.

15           Further, Plaintiff has represented to the Court that he has retained or attempted to retain  
16 various attorneys in this matter; however, no attorney has made any appearance on Plaintiff's  
17 behalf since the withdrawal of his prior counsel on February 17, 2016. Accordingly, for  
18 purposes of this litigation, Plaintiff remains in Proper Person.  
19  
20

///

///

///

///

///



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 IT IS FURTHER ORDERED that the following dates be vacated:

2 1. Calendar Call -- April 27, 2016 at 8:30 a.m.; and

3 2. Trial -- May 2, 2016 at 10:30 a.m.

4 IT IS SO ORDERED this 15th day of April, 2016.

5   
DISTRICT COURT JUDGE

6 *Respectfully Submitted by:*

7 MORAN BRANDON BENDAVID MORAN

8 LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

9 JUSTIN W. SMERBER, ESQ.

Nevada Bar No. 10761

10 630 S. Fourth Street

Las Vegas, Nevada 89101

(702) 384-8424

11 (702) 384-6568 - *facsimile*

[lbrandon@moranlawfirm.com](mailto:lbrandon@moranlawfirm.com)

Attorneys for Defendant,

12 FIESTA PALMS, LLC d/b/a

PALMS CASINO RESORT



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

# EXHIBIT "J"

# EXHIBIT "J"



MORAN BRANDON  
BENDAUID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 **NEOJ**  
2 **LEW BRANDON, JR., ESQ.**  
3 Nevada Bar No.: 5880  
4 **JUSTIN W. SMERBER, ESQ.**  
5 Nevada Bar No.: 10761  
6 **MORAN BRANDON BENDAVID MORAN**  
7 630 S. Fourth Street  
8 Las Vegas, Nevada 89101  
9 (702) 384-8424  
10 (702) 384-6568 - *facsimile*  
11 *l.brandon@moranlawfirm.com*  
12 Attorneys for Defendant,  
13 FIESTA PALMS, LLC d/b/a  
14 PALMS CASINO RESORT

15 **ROBERT L. EISENBERG, ESQ.**  
16 Nevada Bar No. 0950  
17 **LEMONS, GRUNDY & EISENBERG**  
18 6005 Plumas Street, Third Floor  
19 Reno, Nevada 89519  
20 Telephone: (775) 786-6868  
21 Facsimile: (775) 786-9716  
22 *rle@lge.net*  
23 Attorneys for Defendant,  
24 FIESTA PALMS, LLC d/b/a  
25 PALMS CASINO RESORT

26  
27 **DISTRICT COURT**  
28 **CLARK COUNTY, NEVADA**

19 ENRIQUE RODRIGUEZ, an individual,  
20 Plaintiff,  
21 v.  
22 FIESTA PALMS, L.L.C., a Nevada  
23 Limited Liability Company, d/b/a  
24 PALMS CASINO RESORT; BRANDY  
25 L. BEAVERS, individually, DOES I  
26 through X, and ROE CORPORATIONS I  
27 through X, inclusive,  
28 Defendants.

CASE NO.: 06A531538  
DEPT. NO.: XV

**NOTICE OF ENTRY OF ORDER**



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT "K"

# EXHIBIT "K"



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 STEVEN M. BAKER, ESQ.  
Nevada Bar No. 4522  
2 BENSON, BERTOLDO, BAKER & CARTER  
7408 W. Sahara Avenue  
3 Las Vegas, Nevada 89117  
Telephone: (702) 228-2600  
4 Facsimile: (702) 228-2333  
e-mail: Monique @bensonlawyers.com  
5 Attorneys for Plaintiff

6  
7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 ENRIQUE RODRIGUEZ,

CASE NO.: A531538

10 Plaintiff,

DEPT. NO.: X

11 vs.

12  
13 FIESTA PALMS, L.L.C., a Nevada Limited  
Liability Company, d/b/a PALMS CASINO  
14 RESORT, BRANDY L. BEAVERS,  
individually, DOES I through X, inclusive,  
15 and ROE BUSINESS ENTITIES I through X,  
inclusive,

MEDIATION DATE: May 16, 2011

16 Defendants.

MEDIATION TIME: 1:30 P.M.

17  
18 **MEDIATION SETTLEMENT**

19 The parties having agreed to mediation of the above-referenced matter, have reached a  
20 settlement as follows:

21 ////

22 ////

23 ////

24 ////

25 ////

26 ////

27 ////


28 ////

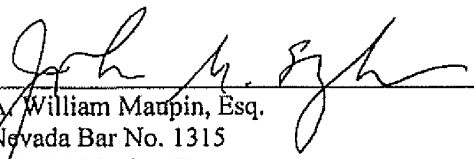
1 Defendant will pay Plaintiff the sum of \$1,000,000.00 in partial satisfaction of the Judgment  
2 entered by Judge Walsh. Said sum shall be non-refundable, but, shall be credited against any future  
3 payments. In exchange, Plaintiff shall dismiss any ongoing efforts at execution and shall agree to a  
4 permanent stay of all collection proceedings through remittitur.  
5

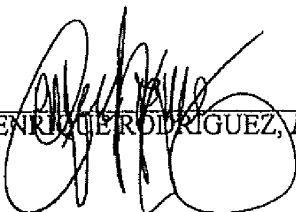
6 DATED this 16 day of May, 2011.  
7

8 BENSON, BERTOLDO, BAKER & CARTER

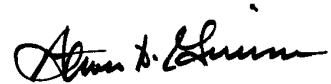
LIONEL, SAWYER & COLLINS

9  
10   
11 Steven M. Baker, Esq.  
12 Nevada Bar No. 4522  
13 Robert S. Cardenas, Esq.  
14 Nevada Bar No. 7301  
15 7408 W. Sahara Avenue  
16 Las Vegas, Nevada 89117  
17 Attorneys for Plaintiff

10   
11 A. William Maupin, Esq.  
12 Nevada Bar No. 1315  
13 John M. Naylor, Esq.  
14 Nevada Bar No. 5435  
15 1700 Bank of America Plaza  
16 300 South Fourth Street  
17 Las Vegas, Nevada 89101  
18 Attorneys for Fiesta Palms, LLC

16   
17 ENRIQUE RODRIGUEZ, Plaintiff  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





CLERK OF THE COURT

RPLY  
JOEL G. SELIK, ESQ. NBN:402  
10191 Park Run Drive Suite 110  
Las Vegas, NV 89145  
Tel: (702) 243-1930 Fax: (760) 479-0081  
Joel@SelikLaw.com  
Attorney for Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Enrique Rodriguez  
Plaintiff,  
  
v.  
  
Fiesta Palms LLC  
Defendants.

**CASE NO. A531538**  
**DEPT. NO. 15**

**REPLY IN SUPPORT OF PLAINTIFF'S  
MOTION FOR RELIEF-NRCP 60**

**DATE: November 15, 2016**  
**TIME: 9:00 a.m.**

**DATE CASE FILED: 11/15/2006**  
**Supreme Court No.: 59630**  
**Remand: 11/04/2014**

**REPLY IN SUPPORT OF MOTION FOR NRCP 60 RELIEF**

**INTRODUCTION**

A Plaintiff litigates a case for nearly 10 years (filed 11/15/2006), through a 6 Million Dollar Judgment, through appeal, and through going to trial again, only to be dropped by his attorney at the last minute, and the case being dismissed within a few months thereafter for Plaintiff's inability to understand the technical requirements. It is certainly lawful, but is it the best expression of justice?

**"With a trial date looming ...,"** defendant cites Enrique Rodriguez's attorney, Padda, motion to withdraw. Opposition, p. 3, L:9-15. Henry Rodriguez had, for the better part of a decade had attorneys representing him in this case. It was only at the last few months, were Rodriguez found himself abandoned, unable to hire other counsel, and with trial court obligations he simply could not understand or comply with.

1 The Trial “district court determined that **Palms was liable as a matter of law** and  
2 **awarded Rodriguez \$6,051,589 in damages.**” *FCHI, LLC v. Rodriguez* (2014), 130 Nev. Adv.  
3 Op. 46, 335 P.3d 183. Appeals ensued, and this matter was set to go to trial in February 2016, and  
4 then moved to April 2016. But for Plaintiff’s attorney droppping him, this matter could have gone  
5 to trial and Mr. Rodriguez had a chance to obtain another verdict, perhaps more than \$6,000,000.

6  
7 **A PRO PER LITIGANT MUST FOLLOW THE RULES OF**  
8 **COURT BUT THE COURT SHOULD BE UNDERSTANDING**  
9 **OF A PRO PER LITIGANT’S DIFFICULTY IN DOING SO**

10 The case at bar presents an interesting question, based on the facts of this particular cas,  
11 how may chances should a pro per litigant be given. Here, Plaintiff had some opportunity to obtain  
12 another attorney, and with a overtnured six million dollar verdict, he had every reason to do so.  
13 With his attorney dropping him, and limited time to trial, and with the limited actions the attorney  
14 had done, Henry Rodriguez found it impossible to find an attorney. While Mr. Rodriguez did have  
15 several chances, once the motion to withdraw was filed/granted, when Attorney Bonfatto was no  
16 longer involved, when the motion to dismiss was filed, Mr. Rodriguez could not find an attorney to  
17 jump into a case with an immeidate trial date, and simply did not have the mental ability,  
18 knowledge and wherewithall to comply with the requirements, such as oppositions and exhibit  
19 lists. Yes, Plaintiff was given chances, even repeatedly, but its important to note, the only issues  
20 and only relevant chances has been in 2016 since Attorney Padda decided to withdraw. Plainifff  
21 fulfilled his obligations for years, but only, at the end, when the attorneys left, did he not comply  
22 with his requirements.

23 It is requested that this Court give Mr. Rodriguez, this one more chance, to have an attorney  
24 take over this case and bring this case to trial.

25  
26  
27  
28 ///

**DEFENDANT IS CORRECT, BUT ....**  
**TRIAL ON ITS MERITS IS JUSTICE'S GOAL**

The defendant admits that this Court has broad discretion in making the decision to grant Plaintiff this relief. Opposition, p. 5, 4-5. The Court exercising its discretion to grant this relief, to give Mr. Rodriguez another chance to comply, would certainly not be disturbed on appeal. While it is more likely that an order denying this relief would be overturned on appeal for abuse of discretion, that would also not be likely.

It is requested that the Court exercise its discretion on the side of giving the Plaintiff another opportunity. Plaintiff, in a case going on for nearly a decade, he has only been non-compliant a small fraction of the time of the case. It is requested that the Court exercise its discretion allowing this case to be heard on its merits, as opposed to determining this case on procedural ground.

Defendant's points are certainly well taken, and a strong argument can be made to not grant the relief, but when the arguments of defendant is studied more closely, it shows the factors for granting relief weigh to granting relief, and allow justice on the merits.

**PRO PER LITIGANTS ARE HELD TO COMPLY WITH ALL  
THE RULES & REQUIREMENTS AS REPRESENTED PARTIES,  
BUT, IN NEVADA, PRO PER LITIGANTS ARE TREATED  
DIFFERENTLY, AND IT IS REQUESTED THAT UNDERSTANDING  
OF THE DIFFICULTIES FOR THIS PRO PER DEFENDANT IN  
COMPLYING BE CONSIDERED AND THAT PLAINTIFF BE GIVEN AN  
ADDITIONAL CHANCE TO COMPLY WITH THE REQUIREMENTS**

Plaintiff is not asking to be relieved from complying from the rules of court. Plaintiff is requesting relief from his failures to do so, which, considering the circumstances where caused by excludable neglect.

There is no doubt that under Nevada Law, pro per litigants are treated differently; for example, Nevada Supreme Court Rule 44, NRS 12.015. In fact, the Revised Nevada Rules of

Judicial Conduct specifically note that pro se litigants may make reasonable accommodations for pro se litigants. See comment 4 to RNRJC 2.2:

Rule 2.2. Impartiality and Fairness. A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

**[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.**

Thus it is clear, that the rules allow the Court to provide assistance and relief to pro per litigants.

**PUBLIC POLICY PROVIDES NOT JUST THAT THE RULES BE FOLLOWED  
BUT ALSO THAT CASES BE DECIDED ON THEIR MERITS, WHEREVER POSSIBLE**

Defendant argues that public policy only requires that pro per litigants follow the rules with no consideration for their pro per status. Opposition p. 11-12. But, public policy also requires that the difficulty of a pro per litigant may be recognized. It is a recognized public policy to allow pro per litigants access to the courts, and to consider their limited ability to represent themselves:

Nevada has long recognized the importance of maintaining direct access to its state courts.<sup>4</sup> Accordingly, Nevada Supreme Court Rule 44 generally allows for self-representation in all lower courts, and NRS 12.015 permits an indigent person to proceed in forma pauperis, without the payment of court costs and fees. Such rules and statutes help to ensure that every person in Nevada is afforded meaningful access to the courts, regardless of that person's financial status. *Jordan v. State ex rel. Dep't of Motor Vehicles & Public Safety* (2005), 121 Nev. 44, 59-62, 110 P.3d 30, 41-44 (2005), footnotes omitted.

KNOWLEDGE OF FEBRUARY TRIAL DATE: Defendant argues Rodriguez knew of the February Trial Date (not all the requirements, but of the date). Opposition, p. 3, 15-17. First the motion defendant cites to does not state that Rodriguez knew of the February Trial date, but simply

1 that Padda told Henry that with the differences of opinion regarding the case, he could no longer  
2 represent him. [And this is Padda's claim, but the fact was that that Mr. Padda was simply  
3 dropping Mr. Rodriguez for Padda's own financial reasons]. And, most importantly, this is not  
4 evidence that Henry had notice of the continued trial date. The only evidence that Henry had notice  
5 of the April trial date, is the proof of service by the clerk of the court indicating that the clerk  
6 mailed the notice to Mr. Rodriguez' then attorney of record, Padda, to defendant and to Mr.  
7 Rodriguez. As Rodriguez was represented by counsel at the time of service by the clerk, if it was  
8 sent to Rodriguez by mail, such service is a nullity, as only the attorney of record may be served.  
9 There is no evidence that Padda ever informed Henry of the new trial date. See Enrique Rodriguez  
10 declaration, paragraph 15.

11 Plaintiff does not have the video or transcripts of the hearings, but the minute orders do not  
12 indicated that Mr. Rodriguez "confirmed he had been receiving the materials relative to the case.  
13 See *id.*" Opposition, p. 4, 14-15.<sup>1</sup>

14 Similarly, the court minutes do not state that Plaintiff confirmed "that he received the  
15 Motion (Motion to Dismiss)." Opposition, p. 4, 18-19.<sup>2</sup>

16 ///

---

17  
18  
19 <sup>1</sup> "04/07/2016 9:00 AM .... Court noted that Oppositions had not been filed for any of the instant Motions. Mr. Smerber  
20 indicated he had received no Oppositions to any of the Motions, and requested they be granted pursuant to EDCR  
21 2.20(e). Mr. Rodriguez requested a six month extension in order to seek new counsel, noting that Mr. Padda withdrew as  
22 his counsel in February. COURT ORDERED Mr. Rodriguez's request for an extension was hereby DENIED, FINDING  
23 that, although Plaintiff was proceeding in Proper Person, that did not excuse him from properly following the rules of  
24 civil procedure. COURT FURTHER ORDERED, ALL Motions in Limine GRANTED as unopposed, pursuant to EDCR  
25 2.20(e), FINDING that all of the Motions were properly served on the Plaintiff at his last known address. Mr. Smerber to  
26 prepare one Order for all of the Motions in Limine and submit it directly to the Court. The Court advised Plaintiff to  
27 properly pursue the case if he wished to move forward, and to review the pending Motion for Summary Judgment and  
28 determine whether he wished to file an Opposition.

24 <sup>2</sup> "04/14/2016 9:00 AM .... Mr. J. Smerber, Esq., appearing on behalf of Fiesta Palms, LLC. Court noted no opposition  
25 or response had been filed. Pltf. requested a continuance, stating he had spoken with local counsel whom were to appear  
26 today. Mr. Smerber stated he had no contact with any attorney pertaining to this matter and there being no opposition  
27 requested the motion be granted. Court stated its findings and ORDERED, Def't.'s Motion to Dismiss GRANTED; Def't.'s  
28 Motion for Partial Summary Judgment DENIED WITHOUT PREJUDICE due to the Motion to Dismiss being granted.  
Mr. Smerber stated due to the facts discussed Pltf. is self-represented since notice of withdraw and the motions needed to  
be responded to and service was clearly made, the issue with counsel are insufficient in this action to preclude action in  
the rules. Mr. Smerber to submit an order to the Court.

**APPLYING THE 5 FACTOR TEST FOR NRCP 60 RELIEF, THIS COURT SHOULD GRANT PLAINTIFF'S MOTION FOR RELIEF**

Defendant only cites to the 4 factors set forth in *Yochum v. Davis* (1982) 98 Nev. 484, 653 P.2d 1215 but ignores the final factor as set forth in *Kahn v Orme* (1992) 835 P.2d 790, 792 108 Nev. 510, 513: "the **court must give due consideration to the state's underlying basic policy of resolving cases on their merits whenever possible.**" Citing *Yochum* 98 Nev. at 487, 653 P.2d at 1127. [Emphasis added].

The other factors aside, which can be looked at in other ways, it is clear, the public policy of resolving cases, on their merits whenever possible, weighs heavily in favor of granting Rodriguez relief.

SIX MONTHS: Henry Rodriguez six month delay is reasonable and excusable under the circumstances of this case. He had an attorney, who dropped the case, and then he hired another attorney and tried to find other attorneys, eventually speaking to over twenty attorneys. It is difficult to take on a case that has already has problems in it and it is often difficult to find an attorney to take on cases where there have been many attorneys.

MONEY: Defendant argues that Henry's argument he had money because of a partial settlement in 2011. Out of that settlement where all the vast litigation expenses, trial expenses, expert expenses, etc., and this is not to mention the large medical bills and treatment that Plaintiff needed. Mr. Rodriguez was left with only a small percentage, which has been used to feed and shelter his family and for him to help in getting medical treatment, not covered. There is simply no money left from that years ago settlement.

NO INTENT TO DELAY: Plaintiff had no reason to delay six months other than his own inability to hire counsel, wants done soonest,

NO PREJUDICE TO DEFENDANT: While defendant argues that this case has been going on years (much of it, on defendant's appeal), this problem of not having an attorney only arose this year, and it is only a few month delay that defendants will suffer. Defendants can point

1 to nothing specific that they six month delay harmed them, or the delay from when it could have  
2 gone to trial. While defendants argue that “justice delayed is justice denied,” Mr. Rodriguez has  
3 had his justice delayed for more than a decade when he was injured due to the tortious conduct of  
4 defendants. Justice delayed is justice denied, but not in exchange for decision on its merit, only a  
5 few months.

6 While defendant argues this case has gone on years which prejudices them, the delay by the  
7 Plaintiff is relatively short in the length of the case, and Plaintiff will never receive proper  
8 compensation for his injuries. Instead of justice based on the merits, results will be based on  
9 Plaintiff unable to find the right attorney at the right time and suffering being dropped by counsel  
10 at the last minute.

11 RODRIGUEZ DID NOT KNOW WHAT THE REQUIREMENTS WERE: Plaintiff must  
12 comply with the requirements, but it is understandable when a pro per litigation does not quite  
13 understand.

14 Eventually, Plaintiff found out that the hearings were listed online, but did not understand  
15 what they were for, but found out and showed up to those hearings.

16 It is true the Court admonished Plaintiff to take action, and he did, he attempted to find an  
17 attorney. Plaintiff’s failure to act, was not out of intent but pure inability; inability to undersand  
18 trquirmes and inability to have them complied with. While

19 EXCUSABLE NEGLECT: Defendant argues there is neglect, but not “excusable” neglect  
20 because Henry “clearly had knowledge of the procedural requirements.” because the Court had  
21 admonished him he needed to obey rules. Opposition p. 11, 8-17. Plaintiff was admonished to  
22 follow the rules, certainly, but knowing that there are, generally, rules, and knowing where to find  
23 the rules, knowing what the rules require, and actually following those rules for a non-attorney are  
24 very different. Plaintiff simply did not have the skills to know, understand or the ability to follow  
25 the rules.

1 And, yes, pro pers must be held to follow the rules, and, Henry must follow those rules. But  
2 here, the question is not that he must follow the rules, he must, but shall he be granted relief  
3 because of his inability to do so.

4 While pro per litigants are required to comply with all the litigation rules and requirements,  
5 it is certainly understandable why these procedures cannot be understood and carried out by a non-  
6 attorney. Defendant argues that on March 10, 2016, Henry still had time to comply with the rules,  
7 and oppose the motion to dismiss. While this is theoretically true, he had no attorney, couldn't not  
8 get an attorney, had no money, and had no ability to comprehend and comply with the court's  
9 procedural requirements. With his limited comprehension and abilities, such failures are  
10 understandable, and, therefore, excusable.

## 11 CONCLUSION

12 The weight of each of these factors tip towards relief:

13 (1) a prompt application to remove the judgment; Plaintiff did as soon as could find attorney  
14 and afford.

15 (2) the absence of an intent to delay the proceedings; Plaintiff has no reason to delay, he wants  
16 his day in Court.

17 (3) a lack of knowledge of procedural requirements; While Plaintiff knows there are rules, he  
18 does not understand them, or have the ability to comply, and

19 (4) good faith. Henry Rodriguez, was in a bad situation with "trial looming" and his attorney  
20 dropping out. He tried and tried to find counsel and do the best he could.

21 (5) "the court must give due consideration to the state's underlying basic policy of resolving  
22 cases on their merits whenever possible." Yochum, 98 Nev. at 487, 653 P.2d at 1217.'" *Kahn v*  
23 *Orme* at 792-293. This factor, by itself, would require granting relief.



1 It is respectfully requested that the Court grant its discretion, and grant the relief requested,  
2 giving this matter a chance to be resolved on its merits. Setting new dates, and allowing the parties  
3 to properly prepare for and execute a jury trial in this matter.  
4

5 Respectfully Submitted,

6 Dated: November 10, 2016  
7

8   
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JOEL SELIK

SELIK LAW OFFICES  
Joel Selik, Nevada State Bar No: 402  
10191 Park Run Drive Suite 110  
Las Vegas, NV 89145  
(702) 243-4930; Fax: 760-479-0081  
Email: SelikLaw@aol.com

SELIK LAW OFFICES  
Joel Selik, Nevada State Bar No. 402  
10191 Park Run Drive Suite 110  
Las Vegas, NV 89145  
(702) 243-1930; Fax: 760-479-0881  
Email: SelikLaw@aol.com

CERTIFICATE OF SERVICE BY EMAIL/COURT SERVICE  
CASE NUMBER: DISTRICT COURT, COUNTY OF CLARK A531538  
Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant(s)

I hereby certify (and declare under penalty of perjury under the laws of the State of Nevada) that I am an employee or agent of JOEL G. SELIK, ESQ, and that on this date I caused to be SERVED BY USE OF THE COURT'S SERVICE SYSTEM and or BY WAY OF EMAIL a true and correct copy of the accompanying REPLY IN SUPPORT OF: PLAINTIFF ENRIQUE RODRIGUEZ MOTION FOR RELIEF UNDER NRCP 60 VACATING THE DISMISSAL AND SETTING ASIDE THE RULINGS ON MOTIONS IN LIMINE, AND OTHER ORDERS RELATED THERETO, to the following:

LEW BRANDON, JR., ESQ. Nevada Bar No. 5880 JUSTIN W. SMERBER, ESQ. Nevada Bar No. 10761 MORAN BRANDON BENDAVID MORAN 630 S. Fourth Street Las Vegas, Nevada 89101 l.brandon@moranlawfirm.com Attorneys for Defendant, FIESTA PALMS, LLC d/b/a PALMS CASINO RESORT	
--	--

ROBERT L. EISENBERG, ESQ. Nevada Bar No. 0950 LEMONS, GRUNDY & EISENBERG 6005 Plumas Street, Third Floor Reno, Nevada 89519 Telephone: (775) 786-6868 / Facsimile: (775) 786-9716 rlc@lge.net Attorneys for Defendant, FIESTA PALMS, LLC d/b/a PALMS CASINO RESORT	
--	--

November 10, 2016

  
\_\_\_\_\_  
Employee of JOEL SELIK, ESQ.

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New District Civil/Criminal Search](#) [Refine Search](#) [Close](#)

Location : District Court Civil/Criminal [Help](#)

## REGISTER OF ACTIONS

CASE No. 06A531538

Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant  
(s)

§  
§  
§  
§  
§  
§  
§

Case Type: **Negligence - Premises Liability**  
Date Filed: **11/15/2006**  
Location: **Department 15**  
Cross-Reference Case Number: **A531538**  
Supreme Court No.: **59630**

---

### PARTY INFORMATION

---

#### Lead Attorneys

Defendant Fiesta Palms LLC

~~Lewis W. Brandon, Jr.~~  
~~Retained~~  
~~702-384-6568(W)~~

Doing Palms Casino Resort  
Business As

~~Lewis W. Brandon, Jr.~~  
~~Retained~~  
~~702-384-6568(W)~~

Plaintiff Rodriguez, Enrique

Joel G. Selik  
~~Retained~~  
702-243-1930(W)

---

### EVENTS & ORDERS OF THE COURT

---

11/15/2016 **Motion for Relief** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Plaintiff's Motion for Relief - NRCP 60*

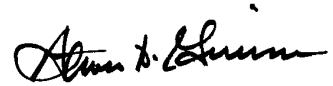
#### Minutes

11/15/2016 9:00 AM

- Also present: Justin Smerber, Esq. and Robert Eisenberg, Esq. on behalf of the Defendant. Mr. Selik argued in support of the Motion, requesting the Plaintiff be given the chance to have his case heard on its merits. Mr. Smerber argued in opposition, stating that Plaintiff did not make a prompt showing of applying to remove the judgment. COURT ORDERED Motion DENIED for all of the reasons set forth in the Opposition. FINDING the following: (1) Plaintiff was aware for months that he needed to obtain new counsel, or that he needed to proceed as a self-represented litigant; (2) Plaintiff failed to obtain new counsel, and failed to comply with the rules of the Court; (3) the six-month deadline argument was not persuasive, as the six-month deadline was an outside parameter; and (4) the delays throughout the case were prejudicial to the Defendant, and granting the instant Motion would cause further prejudice. Mr. Smerber to prepare the Order, including all of the bases set forth in the Opposition, and forward it to Mr. Selik for approval as to form and content.

[Parties Present](#)

[Return to Register of Actions](#)



CLERK OF THE COURT

TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

\* \* \* \* \*

ENRIQUE RODRIGUEZ,	)	
	)	CASE NO. 06-A-531538
Plaintiff,	)	
	)	
vs.	)	DEPT. NO. XV
	)	
FIESTA PALMS, LLC,	)	
	)	<b>Transcript of Proceedings</b>
Defendant.	)	

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

**PLAINTIFF'S MOTION FOR RELIEF - NRCP 60**

TUESDAY, NOVEMBER 15, 2016

APPEARANCES:

For the Plaintiff: JOEL SELIK, ESQ.

For the Defendant: JUSTIN W. SMERBER, ESQ.  
ROBERT L. EISENBERG, ESQ.

RECORDED BY: MATTHEW YARBROUGH, DISTRICT COURT  
TRANSCRIBED BY: KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TUESDAY, NOVEMBER 15, 2016 AT 9:10 A.M.

THE CLERK: *Rodriguez versus Fiesta Palms, LLC.*

MR. SELIK: Good morning.

THE COURT: Go ahead and state your appearances  
for us.

MR. SMERBER: Joel Selik for the plaintiff and  
movant.

MR. SMERBER: Good morning, Your Honor. Justin  
Smerber of Moran, Brandon, Bendavid, Moran on behalf of  
defendant, Fiesta Palms, LLC.

Good morning, Your Honor. Robert Eisenberg for  
the defendant.

THE COURT: Good morning. Okay. So, this is  
Plaintiff's Motion for Relief - NRCP 60. I've reviewed  
Motion, and Opposition, and Reply, and I welcome arguments  
from counsel.

MR. SELIK: Okay. I will make it brief since  
you've reviewed it. And I want to start with a sports  
metaphor, if I may. It's the --

THE COURT: It might be appropriate in this case.

MR. SELIK: Yes.

THE COURT: Maybe.

MR. SELIK: It's the bottom of the ninth and we're  
losing. We're up to bat. There's already two outs -- oh,

1 wait. No. There's a third out. We just had a strike out.  
2 Game is over. The game is over. And, so, I turn to the  
3 ump and I say: Well, let us have a fourth out. And, of  
4 course, the umpire says: There's no fourth outs in  
5 baseball. Which there is no -- it just doesn't happen.

6 Well, it does happen in court and my -- our  
7 situation here is this is the time to do it. Be clear that  
8 we're not saying that the defendant's firms did anything  
9 wrong in regards to this. That's their -- they are  
10 completely blameless. But what we have is a plaintiff who  
11 litigated this case for many years, got a \$6 million  
12 judgment over turned on appeal, had attorneys who brought  
13 it up and got it close to trial, but when it was time to do  
14 trial, it was thrown in his lap. And, while pro pers are  
15 required to follow the rules -- and he most certainly  
16 should have and, certainly, Your Honor's dismissal of the  
17 case at that time was well within your discretion. He now  
18 comes and says: Look, I think I have a team. I think we  
19 can go forward. I would like to have a chance to actually  
20 comply with those rules.

21 It is -- now, I'll mix my sports metaphors. It's  
22 the Hail Mary pass. Or it's the on the one knee or the  
23 nine-year-old child: Please, please, please can't we go to  
24 Disneyland? But there's good reasons for it here. We have  
25 a man who litigated this case for a long time who did

1 everything that's right until the last minute when he lost  
2 counsel for various reasons. And while we treat pro pers  
3 the same, the Nevada Rules of Judicial Conduct provide in  
4 the comments to 2.2:

5           It is not a violation of this rule for a judge to  
6           make reasonable accommodations to ensure self-  
7           represented litigants the opportunity to have their  
8           matter fairly heard.

9           And our request here is that defense makes an  
10          argument: Well, he had lots of money. His case settled  
11          for a million dollars. Well, he got a small piece of that  
12          and that was in 2011. He just couldn't do it in the last  
13          six months and he finally was able to get in contact with  
14          me and we put together this. It is a request to give him  
15          one more chance so that this case can be heard on it -- the  
16          merits. Thank you, Your Honor.

17                THE COURT: Thank you.

18                MR. SMERBER: Good morning, Your Honor.

19                While I appreciate counsel's argument, generally,  
20          the only thing that I would agree with there is that the  
21          game is over. Your Honor, it -- our position rests mostly  
22          with the basic principle behind Rule 60. The principle  
23          behind Rule 60 is to relieve a party from an order that was  
24          issued by the Court in his regular proceedings. It's not  
25          designed to reward a party who hasn't acted with diligence.

1 It's not designed to relieve a party or give them back an  
2 affirmative right that they lost because of their own  
3 failure to act.

4           Now, both parties have directed the Court to the  
5 *Yoakam Davis* [phonetic] decision for the factors that the  
6 Court should be applying in determining whether or not Rule  
7 60 relief is available. The first one, which is actually  
8 dispositive of the entire decision, is whether or not there  
9 was a prompt application made to remove the judgment.  
10 Well, here, Your Honor, the plaintiff is arguing that a  
11 prompt application was made because they were within the  
12 six months.

13           Well, I think the Nevada Supreme Court has  
14 interpreted that very contrary to the position they're  
15 taking. Six months is not considered a safe haven, as long  
16 as you're within six months. In fact, we directed the  
17 Court to the *Union Petrochemical Corporation* case where  
18 they said: A person who rushes in just before the six  
19 months has expired is not entitled to Rule 60 relief.  
20 They've essentially sat on their rights and, by doing so,  
21 they've waived their right to relief under Rule 60. Then,  
22 the -- Your Honor, I know because I've been here numerous  
23 times, is very familiar with the procedural history of this  
24 case.

25           THE COURT: I actually am in this one. Yes.



1           MR. SMERBER: And Your Honor knows that Mr.  
2 Rodriguez was here. He was here the day that you dismissed  
3 this case. And he was here on all the days that you  
4 admonished him regarding the things that he needed to do.  
5 So, for them to say: Well, hey, listen, you know, we made  
6 it within the six months is not a showing of a prompt  
7 application. It's quite contrary. He essentially sat  
8 around until the very end and, then, rushed in here which  
9 the Union Chemical -- or, excuse me. *Union Petrochemical*  
10 case has said: That warrants a refusal of Rule 60 relief.

11           The next factor, Your Honor, is whether or not  
12 there's an absence of intent to delay. Now, plaintiff has  
13 taken the position that: Well, there's only been a six-  
14 month delay here because the case was dismissed six months  
15 ago. We obviously have a contrary position on that, as  
16 well.

17           Your Honor, this case was remanded back to State  
18 Court from the Nevada Supreme Court in November of 2014.  
19 We've been here for two years. And, throughout that two-  
20 year process, I've personally been involved for I would  
21 like to say a majority of that time, plaintiff has been  
22 saying: I need a continuance to obtain counsel. I need a  
23 continuance to obtain counsel. In all candor to the Court,  
24 I did request a continuance. I had a death in my family  
25 and we had a short 60-day continuance because of that. In

1 all candor, I'll disclose that. But, for the majority of  
2 that two-year period, it was plaintiff requesting to delay  
3 these proceedings.

4           So, it's not just an issue over the last six  
5 months and we cited throughout our brief the *Gustafson* case  
6 where it says: The Nevada Rules of Civil Procedure are  
7 designed in whole to afford a party a just and speedy  
8 resolution of their claims. We just don't have that when a  
9 case is sitting on remand from the Nevada Supreme Court for  
10 over two years at this point. So, I think that there is an  
11 intent to delay. I think there's a delay issue here.

12           The last factor -- and I think that Your Honor's  
13 personal involvement in the procedural history of this case  
14 makes this, you know, possibly most dispositive, is the  
15 plaintiff's lack of knowledge or, you know, actual  
16 knowledge of his procedural requirements. I don't see how  
17 the plaintiff can take the position in this case that in  
18 good faith he didn't know the procedural requirements that  
19 were imposed upon him.

20           First, Your Honor, when we filed our Motion to  
21 Dismiss for Failure to Comply with 16.1 and Failure to  
22 Comply With EDCR 2.67, we were filing that in accordance  
23 with the Court's trial scheduling order. And, in order to  
24 do that, I had to file the Motion 15 days before the  
25 plaintiff actually had to take those actions. When he

1 received my Motion which I don't think there's any dispute  
2 that he received my Motion at this point because he showed  
3 up for the hearing, he had 15 days to rectify the  
4 situation. And my Motion was very clear. It said: He has  
5 these obligations, he's failed to comply with these  
6 obligations, these are the rules, this is what he needs to  
7 do, and he did nothing. So, that's the first issue I think  
8 we have in terms of his actual notice of what he was  
9 supposed to be doing.

10           We also have the issue of him appearing at a  
11 pretrial conference and appearing at hearings on Motions in  
12 Limine in proper person by himself where Your Honor  
13 specifically admonished him and said: I know that you're  
14 receiving these materials because you're showing up at the  
15 hearing. And there are dispositive motions pending that if  
16 you want to pursue this action, you need to do something.  
17 And he left Court and he did nothing.

18           So, the last issue that I think -- you know, well  
19 there's two more issues, Your Honor. In terms of a trial  
20 setting and what procedural timelines had been set forth by  
21 this Court, when the sixth trial order came out, Your  
22 Honor's staff sent it to Mr. Rodriguez, personally. It was  
23 sent to my office. I believe it was sent to Mr. Padda's  
24 office but, on a specific note, it was directly sent to Mr.  
25 Enrique Rodriguez.

1           The last thing, Your Honor -- and this just kind  
2 of came to fruition yesterday, we received an e-mail from  
3 Mr. Padda, plaintiff's previous counsel, who has made  
4 representations that he feels that certain representations  
5 regarding what was told to the plaintiff are inaccurate in  
6 the Motion and what he would have been aware of were  
7 inaccurate. He could request a continuance of today's  
8 hearing in order to submit briefing on the issue. That  
9 obviously didn't happen. I do have a copy of that e-mail.

10           THE COURT: Since I haven't seen it, I assume  
11 opposing counsel hasn't seen it either.

12           MR. SMERBER: I --

13           MR. SELIK: I think I did see it, Your Honor, if  
14 it's the same one.

15           MR. SMERBER: He did -- and, Your Honor, I have  
16 copies of it if you'd like to make a Court's exhibit?

17           THE COURT: When did he send it? Yesterday?

18           MR. SMERBER: It was yesterday at 8:18 a.m., Your  
19 Honor.

20           THE COURT: Oh.

21           MR. SMERBER: And it was --

22           MR. SELIK: It's -- at this point, Your Honor,  
23 it's not only hearsay but it's also may subject Mr. Padda  
24 to ethical situations --

25           THE COURT: Yeah.

1           MR. SELIK:  -- that would probably best not to get  
2 into.

3           THE COURT:  I don't think I need it to rule.

4           MR. SMERBER:  Understood, Your Honor.

5           THE COURT:  But your record is made and my record  
6 is made that I'm not going to consider it.

7           MR. SMERBER:  Very good, Your Honor.

8           With all of those factors, Your Honor, I find it  
9 hard that the plaintiff could stand here in good faith and  
10 say:  I lacked actual knowledge and I'm entitled to relief.

11           The last argument that they've made here, Your  
12 Honor, is -- and it's essentially the last ditch public  
13 policy argument.  You know, public policy requires a trial  
14 on the merits.  Well, Your Honor, there's -- if that were  
15 the situation that somebody could completely disregard the  
16 Court's admonishments, completely disregard the Court's  
17 orders, completely disregard the Rules of Civil Procedure,  
18 and, then, come in and say:  Wait.  Hold on.  Public  
19 policy, let's start over.  We wouldn't have all of these  
20 rules.  We wouldn't have numerous cases from the Nevada  
21 Supreme Court, the ones that we've cited in our brief --  
22 the *Killup* [phonetic] case, the *Union* case, where the  
23 Nevada Supreme Court has come down and said:  No.  You're  
24 not entitled to Rule 60 relief and we're going to let that  
25 judgment stand.

1           While I agree there's always public policy issues,  
2 there's a counterbalance there, Your Honor, which is  
3 everybody's right to have things heard in a just, timely,  
4 efficient manner. And, Your Honor, here we are, we're two  
5 years past the remand date. I just don't think that public  
6 policy outweighs the complete action -- or, excuse me.  
7 Lack of action on behalf of Mr. Rodriguez.

8           And, in conjunction with all the other arguments  
9 submitted in our brief, Your Honor, unless you have any  
10 further questions, I'll submit on that.

11           THE COURT: No. Thank you very much.

12           MR. SELIK: If I was in Mr. Smerber's shoes, I  
13 would be so frustrated that I thought this case was over.  
14 I did everything I should. I did everything I right. I --

15           THE COURT: The Court probably thought this case  
16 was over, as well.

17           MR. SELIK: Sure. And, in many aspects, it could  
18 be, it should be. And, you know, this is clearly in Your  
19 Honor's discretion but when we talk about the points Mr.  
20 Smerber made, six months, he did the best he could to find  
21 an attorney when he could and, then, we got it filed.  
22 Talked about the intent to delay. There's certainly was a  
23 long delay but it was no intent. Mr. Rodriguez benefits  
24 not at all by the delay. The lack of knowledge of the  
25 procedural requirements, he knew there were procedural

1 requirements, may have even known what some of them were,  
2 but with his limited capacity, he had no ability to  
3 actually get those done. And the public policy absolutely  
4 is to get rid of things as quickly as possible but the  
5 overwhelming policy is a case on the merits. This is a  
6 case where the Court could exercise its discretion and  
7 allow the relief. And I thank you for allowing us to  
8 present the Motion.

9 THE COURT: Thank you. Thank you both. Mr.  
10 Selik, you did an admirable job under the very difficult  
11 circumstances but I am going to deny the Motion for Relief  
12 - NRCP 60 for all the reasons set forth in the Opposition.

13 Mr. Smerber, you'll prepare the Order. Submit it  
14 to Mr. Selik for review and approval.

15 And when I say I'm denying it for all the reasons  
16 in the Opposition, that's literally true. I won't go  
17 through and read through the Opposition in its entirety but  
18 when you prepare the Order, please include all those  
19 reasons in the Order, rather than just the Motion's denied.  
20 If this is going to be taken up on appeal and I'd rather be  
21 reversed on the merits, rather than, you know, not giving  
22 the reasons.

23 You know, the -- just to touch on a few. Mr.  
24 Rodriguez was aware for months and months that he needed to  
25 obtain new counsel or proceed, you know, as a self-

1 represented litigant and comply with the rules. He knew  
2 that and, despite knowing that, did not do so for many,  
3 many months and clearly had notice. He appeared in front  
4 of me and I even told him on more than one occasion that he  
5 needed to comply and, despite that, did not.

6 I agree wholeheartedly with the argument that the  
7 six months is an outside rather than -- outside type of  
8 deadline rather than: Well, you file within six and you're  
9 reasonable. I don't believe that's what the Supreme Court  
10 said. As well as, you know, delays in this case have  
11 certainly prejudiced Fiesta Palms and would be even more so  
12 if the Motion were to be granted.

13 So, again, for all the reasons in the Opposition,  
14 -- again, Mr. Selik, an admirable job under terrible  
15 circumstances that you -- your client finds himself in but  
16 through no fault of your own, obviously. So, Mr. Smerber,  
17 prepare that Order and submit it to counsel for review and  
18 approval.

19 MR. SMERBER: Very good. Thank you, Your Honor.

20 MR. SELIK: Thank you, Your Honor.

21 THE COURT: Thank you.

22

23 PROCEEDING CONCLUDED AT 9:28 A.M.

24 \* \* \* \* \*

25



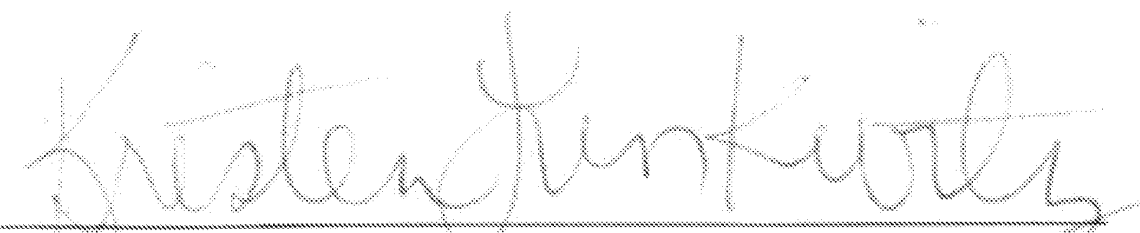
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATION**

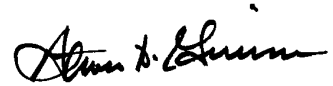
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

**AFFIRMATION**

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.

A handwritten signature in cursive script, reading "Kristen Lunkwitz", written in dark ink. The signature is positioned above a horizontal line.

KRISTEN LUNKWITZ  
INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

**Marquis Aurbach Coffing**

Micah S. Echols, Esq.

Nevada Bar No. 8437

Adele V. Karoum, Esq.

Nevada Bar No. 11172

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

mechols@maclaw.com

akaroum@maclaw.com

Attorneys for Plaintiff, Enrique Rodriguez

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

vs.

FIESTA PALMS, LLC, a Nevada Limited  
Liability Company, d.b.a. PALMS CASINO  
RESORT; BRANDY L. BEAVERS,  
individually; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: 06A531538

Dept. No.: XV

**NOTICE OF APPEARANCE**

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**NOTICE OF APPEARANCE**

NOTICE IS HEREBY GIVEN to the Court and all counsel that Micah S. Echols, Esq. and Adele V. Karoum, Esq. of Marquis Aurbach Coffing are appearing in this matter for Plaintiff, Enrique Rodriguez.

Dated this 20th day of December, 2016.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols

Micah S. Echols, Esq.

Nevada Bar No. 8437

Adele V. Karoum, Esq.

Nevada Bar No. 11172

10001 Park Run Drive

Las Vegas, Nevada 89145

Attorneys for Plaintiff, Enrique Rodriguez

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **NOTICE OF APPEARANCE** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 20th day of December, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

MORAN LAW FIRM, LLC	
Contact	Email
Darcy Flores-Nocedal	<a href="mailto:D.NOCEDAL@MORANLAWFIRM.COM">D.NOCEDAL@MORANLAWFIRM.COM</a>
Lew Brandon, Jr.	<a href="mailto:l.brandon@moranlawfirm.com">l.brandon@moranlawfirm.com</a>

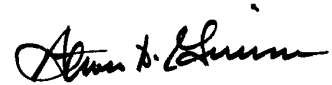
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Joel G. Selik, Esq.  
10191 Park Run Drive, Ste. 110  
Las Vegas, Nevada 89145

Robert L. Eisenberg, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Attorneys for Defendant

/s/ Leah Dell  
Leah Dell, an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



CLERK OF THE COURT

1 **NEOJ**  
2 **LEW BRANDON, JR., ESQ.**  
3 Nevada Bar No.: 5880  
4 **JUSTIN W. SMERBER, ESQ.**  
5 Nevada Bar No.: 10761  
6 **MORAN BRANDON BENDAVID MORAN**  
7 630 S. Fourth Street  
8 Las Vegas, Nevada 89101  
9 (702) 384-8424  
10 (702) 384-6568 - *facsimile*  
11 *l.brandon@moranlawfirm.com*  
12 Attorneys for Defendant,  
13 FIESTA PALMS, LLC d/b/a  
14 PALMS CASINO RESORT

15 **ROBERT L. EISENBERG, ESQ.**  
16 Nevada Bar No. 0950  
17 **LEMONS, GRUNDY & EISENBERG**  
18 6005 Plumas Street, Third Floor  
19 Reno, Nevada 89519  
20 Telephone: (775) 786-6868  
21 Facsimile: (775) 786-9716  
22 *rle@lge.net*  
23 Attorneys for Defendant,  
24 FIESTA PALMS, LLC d/b/a  
25 PALMS CASINO RESORT

17 **DISTRICT COURT**  
18 **CLARK COUNTY, NEVADA**

19 ENRIQUE RODRIGUEZ, an individual,

20 Plaintiff,

21 v.

22 FIESTA PALMS, L.L.C., a Nevada  
23 Limited Liability Company, d/b/a  
24 PALMS CASINO RESORT; BRANDY  
25 L. BEAVERS, individually, DOES I  
26 through X, and ROE CORPORATIONS I  
27 through X, inclusive,

28 Defendants.

CASE NO.: 06A531538  
DEPT. NO.: XV

**NOTICE OF ENTRY OF ORDER**

///



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

330 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE (702) 384-8424  
FAX (702) 384-6568

1 **NOTICE OF ENTRY OF ORDER**

2 YOU, AND EACH OF YOU, will please take notice that on December 23, 2016, an  
3 Order Denying Plaintiff's Motion for NRCP 60 Relief was entered in the above-entitled matter  
4 by the Honorable Joe Hardy. A filed copy is attached hereto.  
5

6 DATED this 27 day of December, 2016.

7 **MORAN BRANDON BENDAVID MORAN**

8  
9 **LEW BRANDON, JR., ESQ.**

10 Nevada Bar No. 5880

11 **JUSTIN W. SMERBER, ESQ.**

12 Nevada Bar No.: 10761

13 630 S. Fourth Street

14 Las Vegas, Nevada 89101

15 Attorneys for Defendant,

16 FIESTA PALMS, LLC d/b/a

17 PALMS CASINO RESORT

18 **CERTIFICATE OF SERVICE**

19 Pursuant to Nev. R. Civ. P. 5(b), I certify that on December 28, 2016, I served a true  
20 and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** through the Court's ECF  
21 electronic filing system:  
22

23 **MICAH S. ECHOLS, ESQ.**

24 Nevada Bar No. 8437

25 **MARQUIS AURBACH COFFING**

26 10001 Park Run Drive

27 Las Vegas, Nevada 89145

28 Attorney for Plaintiff,

**ENRIQUE RODRIGUEZ**

**JOEL SELIK, ESQ.**

Nevada Bar No. 402

**SELIK LAW**

10191 Park Run Drive Suite 110 Las

Vegas, NV 89145

Tel: (702) 243-1930

Fax: (760) 479-0081

Joel@SelikLaw.com


Attorney for Plaintiff,

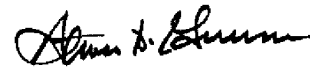
**ENRIQUE RODRIGUEZ**



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

330 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE (702) 384-8424  
FAX (702) 384-8424

29   
An Employee of Moran Brandon Bendauid Moran



CLERK OF THE COURT

**ORDR**  
**LEW BRANDON, JR., ESQ.**  
Nevada Bar No.: 5880  
**JUSTIN W. SMERBER, ESQ.**  
Nevada Bar No.: 10761  
**MORAN BRANDON BENDAVID MORAN**  
630 S. Fourth Street  
Las Vegas, Nevada 89101  
(702) 384-8424  
(702) 384-6568 - *facsimile*  
*l.brandon@moranlawfirm.com*  
Attorneys for Defendant,  
FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

**ROBERT L. EISENBERG, ESQ.**  
Nevada Bar No. 0950  
**LEMONS, GRUNDY & EISENBERG**  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Telephone: (775) 786-6868 / Facsimile: (775) 786-9716  
*rlc@lge.net*  
Attorneys for Defendant,  
FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,  
Plaintiff,  
v.  
FIESTA PALMS, L.L.C., a Nevada Limited  
Liability Company, d/b/a PALMS CASINO  
RESORT; BRANDY L. BEAVERS, individually,  
DOES I through X, and ROE CORPORATIONS I  
through X, inclusive,  
Defendants.

CASE NO.: 06A531538  
DEPT. NO.: XV

**ORDER DENYING PLAINTIFF'S  
MOTION FOR NRCP 60 RELIEF**

Plaintiff, ENRIQUE RODRIGUEZ's Motion for NRCP 60 Relief having come before  
this Honorable Court on November 15, 2016 at 9:00 a.m., JUSTIN W. SMERBER, ESQ. of



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 MORAN BRANDON BENDAVID MORAN and ROBERT EISENBERG, ESQ. of LEMONS,  
2 GRUNDY & EISENBERG having appeared on behalf of FIESTA PALMS, LLC, and JOEL  
3 SELIK, ESQ. of SELIK LAW having appeared on behalf of ENRIQUE RODRIGUEZ, the  
4 Court having reviewed the Motion, the papers and pleadings on file herein, and for good cause  
appearing finds and orders as follows:

5 Plaintiff has made application to the Court seeking NRCP 60 relief from an order  
6 dismissing Plaintiff's case due to a failure to comply with mandatory requirements in NRCP  
7 16.1 and EDCR 2.67. The only subpart of Rule 60 on which Plaintiff relies is NRCP 60(b)(1),  
8 which allows relief where a party has demonstrated "mistake, inadvertence, surprise, or  
9 excusable neglect." Plaintiff has not sufficiently demonstrated any mistake, inadvertence,  
10 surprise or excusable neglect relating to his failure to comply with mandatory discovery and  
11 pretrial requirements, especially considering the fact that he was personally admonished by the  
Court regarding his need to comply.

12 Additionally, the Court has considered Plaintiff's request for Rule 60 relief in  
13 accordance with the factors set forth in Yochum v. Davis, 98 Nev. 484 (1982), which include: (1)  
14 whether a prompt application was made to remove the judgment; (2) the absence of an intent to  
15 delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good  
faith. *Id.*

16 The Court finds that Plaintiff did not make a prompt application for relief under Rule 60.  
17 Plaintiff has asserted that his Rule 60 motion was timely, because it was filed within six (6)  
18 months of the Notice of Entry of Order granting the Motion to Dismiss. The Plaintiff's Motion  
19 was filed approximately five (5) months and three (3) weeks after Notice of Entry of Order was  
20 served. In accordance with to Union Petrochemical Corp. v. Scott, 96 Nev. 337 (1980), this



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



1 Court finds that the mere fact that Plaintiff filed the motion for relief within six (6) months does  
2 not make the application "prompt" or timely. As stated in the Union Petrochemical Corp case,  
3 "want of diligence in seeking to set aside a judgment is ground enough for denial of such a  
4 motion." *Id.* at p. 338 (holding that district court properly denied motion as untimely where  
5 motion was filed "almost six months" after entry of the judgment). This is especially true in the  
6 instant case where Plaintiff was personally present in Court when the Motion to Dismiss was  
7 granted.

8 The Court also finds that Plaintiff's actions have resulted in delay and prejudice to the  
9 Defense, and awarding relief under Rule 60 would create further delay and prejudice. This  
10 matter has been in District Court on remand since November 4, 2014. There have been  
11 numerous continuances of the trial date at the Plaintiff's request. The Nevada Rules of Civil  
12 Procedure are to be construed to secure the just, speedy, and inexpensive determination of every  
13 action. Dougan v. Gustaveson, 108 Nev. 517 (1992). The timeliness provisions written into the  
14 rules will, as a general proposition, be enforced by the courts in order to promote the timely and  
15 efficient processing of cases. *Id.* Because this matter has already been significantly delayed by  
16 Plaintiff's actions, the Court finds that relief under Rule 60 at this time would create further  
17 delay and prejudice to Defendant, and is inappropriate.

18 The Court also finds that Plaintiff had actual knowledge of the mandatory procedural  
19 requirements imposed upon him in this case. Plaintiff has argued that he was not aware of the  
20 specific procedural requirements imposed upon him, because he was in proper person at the  
time that the motion to dismiss was filed. Initially, the fact that Plaintiff was in proper person  
does not excuse him from complying with the rules of procedure. See *Bonnell v. Lawrence*, 282  
P.3d 712, 718 (2012) citing *Raymond J. German, Ltd. v. Brossart*, 2012 ND 89, 816 N.W.2d 47,



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 (N.D. 2012). Further, the Court finds that Plaintiff was in fact personally and actually aware of  
2 the mandatory procedural requirements imposed upon him, due to the fact that: (1) this Court  
3 mailed its Trial Scheduling Order to Plaintiff directly at his home address; (2) Defendant filed  
4 its motion to dismiss and served it on Plaintiff at his home address, alerting Plaintiff of his  
5 procedural requirements at a time when Plaintiff could have rectified any deficiencies; and (3)  
6 Plaintiff appeared in person at a hearing on April 7, 2016 and was personally admonished by  
7 this Court regarding Defendant's pending dispositive motions and the importance of complying  
8 with the rules and taking appropriate action if he wished to pursue this case. Plaintiff did not  
9 take any action despite these express warnings.

10 Finally, Plaintiff asserts that relief should be granted under Rule 60 due to the public  
11 policy of having matters heard on their merits. While the Court acknowledges the public policy  
12 of having matters heard on their merits, the present matter presents issues that warrant a denial  
13 of Rule 60 relief. The Plaintiff in this action has shown a blatant disregard for the rules of  
14 procedure. Even in the face of numerous opportunities to correct his deficiencies and express  
15 warnings from the Court regarding the consequences of his failure to comply with mandatory  
16 rules, Plaintiff refused to take the necessary actions in his case. Then upon having his matter  
17 dismissed for failure to act, Plaintiff again did nothing to rectify the situation until nearly six (6)  
18 months after his case was dismissed. Such are not the actions of a party who is entitled to relief  
19 under Rule 60.

20 Accordingly, the Court hereby finds that Plaintiff has failed to establish any of the  
grounds for relief set forth in NRCP 60(b)(1), and Plaintiff has failed to establish any of the  
factors identified in Yochum v. Davis.



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-8568

1 IT IS THEREFORE ORDERED THAT PLAINTIFF'S MOTION FOR NRCP 60  
2 RELIEF IS DENIED.

3 IT IS SO ORDERED this 22<sup>nd</sup> day of <sup>December</sup>~~November~~, 2016.

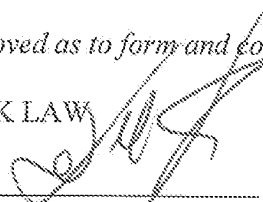
4   
DISTRICT COURT JUDGE

5 Respectfully Submitted by:  
6 MORAN BRANDON BENDAVID MORAN

7   
LEW BRANDON, JR., ESQ.  
Nevada Bar No. 5880  
8 JUSTIN W. SMERBER, ESQ.  
Nevada Bar No. 10761  
630 S. Fourth Street  
9 Las Vegas, Nevada 89101  
(702) 384-8424  
(702) 384-6568 - facsimile  
10 [lbrandon@moranlawfirm.com](mailto:lbrandon@moranlawfirm.com)  
Attorneys for Defendant,  
11 FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

12 Approved as to form and content:

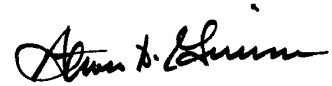
13 SELIK LAW

14   
JOEL SELIK, ESQ.  
15 Nevada Bar No. 402  
10191 Park Run Drive Suite 110 Las Vegas, NV 89145  
16 Tel: (702) 243-1930  
Fax: (760) 479-0081  
17 [Joel@SelikLaw.com](mailto:Joel@SelikLaw.com)  
Attorney for Plaintiff



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

100 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

**Marquis Aurbach Coffing**

Micah S. Echols, Esq.

Nevada Bar No. 8437

Adele V. Karoum, Esq.

Nevada Bar No. 11172

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

mechols@maclaw.com

akaroum@maclaw.com

Attorneys for Plaintiff, Enrique Rodriguez

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

vs.

FIESTA PALMS, LLC, a Nevada Limited  
Liability Company, d.b.a. PALMS CASINO  
RESORT; BRANDY L. BEAVERS,  
individually; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-06-531538

Dept. No.: XV

**NOTICE OF APPEAL**

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**NOTICE OF APPEAL**

Plaintiff, Enrique Rodriguez, by and through his attorneys of record, Marquis Aurbach Coffing, hereby appeals to the Supreme Court of Nevada from the Order Denying Plaintiff's Motion for NRCP 60 Relief, which was filed on December 23, 2016 and is attached as **Exhibit 1.**

Dated this 5th day of January, 2017.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols

Micah S. Echols, Esq.  
Nevada Bar No. 8437  
Adele V. Karoum, Esq.  
Nevada Bar No. 11172  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff, Enrique Rodriguez

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **NOTICE OF APPEAL** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 5th day of January, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

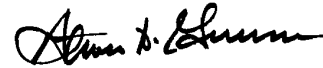
**MORAN LAW FIRM, LLC****Contact**Darcy Flores-Nocedal  
Lew Brandon, Jr.**Email**D.NOCEDAL@MORANLAWFIRM.COM  
l.brandon@moranlawfirm.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Robert L. Eisenberg, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Attorneys for Defendant/s/ Leah DellLeah Dell, an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1



CLERK OF THE COURT

**ORDR**

**LEW BRANDON, JR., ESQ.**

Nevada Bar No.: 5880

**JUSTIN W. SMERBER, ESQ.**

Nevada Bar No.: 10761

**MORAN BRANDON BENDAVID MORAN**

630 S. Fourth Street

Las Vegas, Nevada 89101

(702) 384-8424

(702) 384-6568 - *facsimile*

*l.brandon@moranlawfirm.com*

Attorneys for Defendant,

FIESTA PALMS, LLC d/b/a

PALMS CASINO RESORT

**ROBERT L. EISENBERG, ESQ.**

Nevada Bar No. 0950

**LEMONS, GRUNDY & EISENBERG**

6005 Plumas Street, Third Floor

Reno, Nevada 89519

Telephone: (775) 786-6868 / Facsimile: (775) 786-9716

*rle@lge.net*

Attorneys for Defendant,

FIESTA PALMS, LLC d/b/a

PALMS CASINO RESORT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,  
Plaintiff,

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

Defendants.

CASE NO.: 06A531538

DEPT. NO.: XV

**ORDER DENYING PLAINTIFF'S  
MOTION FOR NRCP 60 RELIEF**

Plaintiff, ENRIQUE RODRIGUEZ's Motion for NRCP 60 Relief having come before  
this Honorable Court on November 15, 2016 at 9:00 a.m., JUSTIN W. SMERBER, ESQ. of



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



1 MORAN BRANDON BENDAVID MORAN and ROBERT EISENBERG, ESQ. of LEMONS,  
2 GRUNDY & EISENBERG having appeared on behalf of FIESTA PALMS, LLC, and JOEL  
3 SELIK, ESQ. of SELIK LAW having appeared on behalf of ENRIQUE RODRIGUEZ, the  
4 Court having reviewed the Motion, the papers and pleadings on file herein, and for good cause  
appearing finds and orders as follows:

5 Plaintiff has made application to the Court seeking NRCP 60 relief from an order  
6 dismissing Plaintiff's case due to a failure to comply with mandatory requirements in NRCP  
7 16.1 and EDCR 2.67. The only subpart of Rule 60 on which Plaintiff relies is NRCP 60(b)(1),  
8 which allows relief where a party has demonstrated "mistake, inadvertence, surprise, or  
9 excusable neglect." Plaintiff has not sufficiently demonstrated any mistake, inadvertence,  
10 surprise or excusable neglect relating to his failure to comply with mandatory discovery and  
11 pretrial requirements, especially considering the fact that he was personally admonished by the  
Court regarding his need to comply.

12 Additionally, the Court has considered Plaintiff's request for Rule 60 relief in  
13 accordance with the factors set forth in Yochum v. Davis, 98 Nev. 484 (1982), which include: (1)  
14 whether a prompt application was made to remove the judgment; (2) the absence of an intent to  
15 delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good  
faith. *Id.*

16 The Court finds that Plaintiff did not make a prompt application for relief under Rule 60.  
17 Plaintiff has asserted that his Rule 60 motion was timely, because it was filed within six (6)  
18 months of the Notice of Entry of Order granting the Motion to Dismiss. The Plaintiff's Motion  
19 was filed approximately five (5) months and three (3) weeks after Notice of Entry of Order was  
20 served. In accordance with to Union Petrochemical Corp. v. Scott, 96 Nev. 337 (1980), this



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568

1 Court finds that the mere fact that Plaintiff filed the motion for relief within six (6) months does  
2 not make the application "prompt" or timely. As stated in the Union Petrochemical Corp case,  
3 "want of diligence in seeking to set aside a judgment is ground enough for denial of such a  
4 motion." *Id.* at p. 338 (holding that district court properly denied motion as untimely where  
5 motion was filed "almost six months" after entry of the judgment). This is especially true in the  
6 instant case where Plaintiff was personally present in Court when the Motion to Dismiss was  
7 granted.

8 The Court also finds that Plaintiff's actions have resulted in delay and prejudice to the  
9 Defense, and awarding relief under Rule 60 would create further delay and prejudice. This  
10 matter has been in District Court on remand since November 4, 2014. There have been  
11 numerous continuances of the trial date at the Plaintiff's request. The Nevada Rules of Civil  
12 Procedure are to be construed to secure the just, speedy, and inexpensive determination of every  
13 action. Dougan v. Gustaveson, 108 Nev. 517 (1992). The timeliness provisions written into the  
14 rules will, as a general proposition, be enforced by the courts in order to promote the timely and  
15 efficient processing of cases. *Id.* Because this matter has already been significantly delayed by  
16 Plaintiff's actions, the Court finds that relief under Rule 60 at this time would create further  
17 delay and prejudice to Defendant, and is inappropriate.

18 The Court also finds that Plaintiff had actual knowledge of the mandatory procedural  
19 requirements imposed upon him in this case. Plaintiff has argued that he was not aware of the  
20 specific procedural requirements imposed upon him, because he was in proper person at the  
time that the motion to dismiss was filed. Initially, the fact that Plaintiff was in proper person  
does not excuse him from complying with the rules of procedure. See *Bonnell v. Lawrence*, 282  
P.3d 712, 718 (2012) citing *Raymond J. German, Ltd. v. Brossart*, 2012 ND 89, 816 N.W.2d 47,



MORAN BRANDT  
BENDAVID MORAN  
ATTORNEYS AT LAW

630 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6569

1 (N.D. 2012). Further, the Court finds that Plaintiff was in fact personally and actually aware of  
2 the mandatory procedural requirements imposed upon him, due to the fact that: (1) this Court  
3 mailed its Trial Scheduling Order to Plaintiff directly at his home address; (2) Defendant filed  
4 its motion to dismiss and served it on Plaintiff at his home address, alerting Plaintiff of his  
5 procedural requirements at a time when Plaintiff could have rectified any deficiencies; and (3)  
6 Plaintiff appeared in person at a hearing on April 7, 2016 and was personally admonished by  
7 this Court regarding Defendant's pending dispositive motions and the importance of complying  
8 with the rules and taking appropriate action if he wished to pursue this case. Plaintiff did not  
9 take any action despite these express warnings.

10 Finally, Plaintiff asserts that relief should be granted under Rule 60 due to the public  
11 policy of having matters heard on their merits. While the Court acknowledges the public policy  
12 of having matters heard on their merits, the present matter presents issues that warrant a denial  
13 of Rule 60 relief. The Plaintiff in this action has shown a blatant disregard for the rules of  
14 procedure. Even in the face of numerous opportunities to correct his deficiencies and express  
15 warnings from the Court regarding the consequences of his failure to comply with mandatory  
16 rules, Plaintiff refused to take the necessary actions in his case. Then upon having his matter  
17 dismissed for failure to act, Plaintiff again did nothing to rectify the situation until nearly six (6)  
18 months after his case was dismissed. Such are not the actions of a party who is entitled to relief  
19 under Rule 60.

20 Accordingly, the Court hereby finds that Plaintiff has failed to establish any of the  
grounds for relief set forth in NRCP 60(b)(1), and Plaintiff has failed to establish any of the  
factors identified in Yochum v. Davis.



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

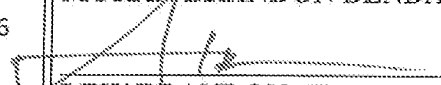
630 SOUTH 14TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-8558

1 IT IS THEREFORE ORDERED THAT PLAINTIFF'S MOTION FOR NRCP 60  
2 RELIEF IS DENIED.

3 IT IS SO ORDERED this 22<sup>nd</sup> day of December, 2016.

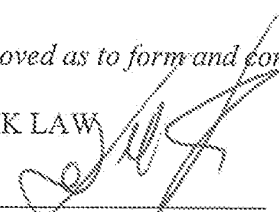
4   
DISTRICT COURT JUDGE

5 Respectfully Submitted by:  
6 MORAN BRANDON BENDAVID MORAN

7   
LEW BRANDON, JR., ESQ.  
Nevada Bar No. 5880  
8 JUSTIN W. SMERBER, ESQ.  
Nevada Bar No. 10761  
630 S. Fourth Street  
9 Las Vegas, Nevada 89101  
(702) 384-8424  
(702) 384-6568 - facsimile  
10 [lbrandon@moranlawfirm.com](mailto:lbrandon@moranlawfirm.com)  
Attorneys for Defendant,  
11 FIESTA PALMS, LLC d/b/a  
PALMS CASINO RESORT

12 Approved as to form and content:

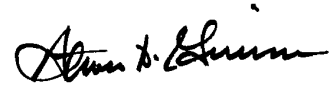
13 SELIK LAW

14   
JOEL SELIK, ESQ.  
15 Nevada Bar No. 402  
10191 Park Run Drive Suite 110 Las Vegas, NV 89145  
16 Tel: (702) 243-1930  
Fax: (760) 479-0081  
17 [Joel@SelikLaw.com](mailto:Joel@SelikLaw.com)  
Attorney for Plaintiff



MORAN BRANDON  
BENDAVID MORAN  
ATTORNEYS AT LAW

130 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: (702) 384-8424  
FAX: (702) 384-6568



CLERK OF THE COURT

**Marquis Aurbach Coffing**

Micah S. Echols, Esq.

Nevada Bar No. 8437

Adele V. Karoum, Esq.

Nevada Bar No. 11172

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

mechols@maclaw.com

akaroum@maclaw.com

Attorneys for Plaintiff, Enrique Rodriguez

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

vs.

FIESTA PALMS, LLC, a Nevada Limited  
Liability Company, d.b.a. PALMS CASINO  
RESORT; BRANDY L. BEAVERS,  
individually; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-06-531538

Dept. No.: XV

**CASE APPEAL STATEMENT**

Plaintiff, Enrique Rodriguez ("Mr. Rodriguez"), by and through his attorneys of record,  
Marquis Aurbach Coffing, hereby files this Case Appeal Statement.

1. Name of appellant filing this Case Appeal Statement:

Enrique Rodriguez

2. Identify the Judge issuing the decision, judgment, or order appealed from:

Honorable Joe Hardy

1 3. Identify each appellant and the name and address of counsel for each appellant:

2 Appellant: Enrique Rodriguez

3 Micah S. Echols, Esq.  
4 Adele V. Karoum, Esq.  
5 Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, Nevada 89145

6 4. Identify each respondent and the name and address of appellate counsel, if known,  
7 for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as  
8 much and provide the name and address of that respondent's trial counsel):

9 Respondent: Fiesta Palms, LLC, a Nevada limited liability company,  
10 d.b.a. Palms Casino Resort, now known as FCH1, LLC, a Nevada  
limited liability company ("Palms Resort")

11 Lew Brandon, Jr., Esq.  
12 Justin W. Smerber, Esq.  
13 Moran Brandon Bendavid Moran  
630 S. Fourth Street  
Las Vegas, Nevada 89101

14 and

15 Robert L. Eisenberg, Esq.  
16 Lemons, Grundy & Eisenberg  
17 6005 Plumas Street, Third Floor  
Reno, Nevada 89519

18 5. Indicate whether any attorney identified above in response to question 3 or 4 is  
19 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney  
20 permission to appear under SCR 42 (attach a copy of any district court order granting such  
21 permission):

22 N/A.

23 6. Indicated whether appellant was represented by appointed or retained counsel in  
24 the district court:

25 Mr. Rodriguez was represented by retained counsel throughout most of the  
26 instant case. However, Mr. Rodriguez represented himself after the withdrawal of  
27 his counsel from December 9, 2014 through May 12, 2015, when attorney Paul  
28 Padda appeared on his behalf. After Mr. Padda withdrew on February 16, 2016,

1 Mr. Rodriguez was unrepresented in the District Court until October 14, 2016  
2 when attorney Joel Selik appeared on his behalf. Mr. Rodriguez is currently  
3 represented by retained counsel.

4 7. Indicate whether appellant is represented by appointed or retained counsel on  
5 appeal:

6 Retained.

7 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and  
8 the date of entry of the district court order granting such leave:

9 N/A.

10 9. Indicate the date the proceedings commenced in the district court (e.g., date  
11 complaint indictment, information, or petition was filed):

12 The complaint was filed on November 15, 2006.

13 10. Provide a brief description of the nature of the action and result in the district  
14 court, including the type of judgment or order being appealed and the relief granted by the  
15 district court:

16 Mr. Rodriguez was in attendance at a sports bar owned and operated by  
17 Palms Resort on November 22, 2004 to watch a televised football game. During  
18 half-time, Palm Girls, including Brandy L. Beavers ("Ms. Beavers") in particular,  
19 were throwing souvenirs to the sports bar patrons while blindfolded. In response  
20 to Ms. Beavers throwing souvenirs, a customer within the sports bar dove for a  
21 thrown souvenir and hit Mr. Rodriguez's extended and stationary left knee.  
22 Mr. Rodriguez then struck the person next to him, hitting the left side of his head  
23 and falling down, thereby sustaining the life-changing injuries that form the basis  
24 of the claims in the instant case.

25 On February 25, 2010, a default against Ms. Beavers was entered for  
26 failure to appear or file an answer.

27 The case against Palms Resort proceeded to a twelve-day bench trial,  
28 ultimately resulting in a \$6,051,589 award to Mr. Rodriguez for damages. Palms

1 Resort appealed (docketed as Supreme Court Case No. 59630), and the Supreme  
2 Court reversed and remanded for a new trial.

3 Upon remand, the District Court granted Palms Resort's motion to set a  
4 jury trial, and a jury trial was set to begin on February 22, 2016.

5 On January 20, 2016, with trial looming, Mr. Padda filed a motion to  
6 withdraw on shortened time, which was granted. The order itself does not appear  
7 to have ever been filed. However, prior to his withdrawal being granted,  
8 Mr. Padda did not attend the February 1, 2016 pre-trial conference, but, according  
9 to the Court's service records, he received notice that the Court had reset the trial  
10 date to May. Mr. Padda failed to inform Mr. Rodriguez of any of the new dates.

11 On March 7, 2016, Palms Resort, taking advantage of Mr. Rodriguez's  
12 unrepresented status, filed 16 motions in limine, a motion for partial summary  
13 judgment, and a motion to dismiss. Mr. Rodriguez appeared at the April 7, 2016  
14 hearing on the motions in limine and requested a 6-month extension of time to  
15 enable him to retain new counsel and properly respond to the 18 different motions  
16 filed by Palms Resort immediately following the withdrawal of his counsel, but  
17 the Court denied the request and, instead, granted all of Palms Resort's motions in  
18 limine as unopposed.

19 In addition, Mr. Rodriguez appeared at the April 14, 2016 hearing on the  
20 motion to dismiss and the motion for partial summary judgment. Mr. Rodriguez  
21 requested a continuance, reporting that he had spoken with counsel who was also  
22 supposed to be in attendance with him, but who had not shown up for the hearing.  
23 The Court denied Mr. Rodriguez's request for continuance, granted Palms  
24 Resort's motion to dismiss, and denied Palms Resort's partial motion for  
25 summary judgment as moot.

26 Mr. Rodriguez continued to struggle for several months with finding  
27 counsel who would take on his case, but he was finally able to retain Mr. Selik,  
28 who appeared on October 14, 2016 and filed a motion for relief from judgment



1 pursuant to NRCp 60. The Court denied the motion for relief at the hearing on  
2 November 15, 2016. The order denying Plaintiff's motion for NRCp 60 relief  
3 was filed on December 23, 2016 and noticed on December 28, 2016.  
4 Mr. Rodriguez now appeals from the December 23, 2016 order.

5 11. Indicate whether the case has previously been the subject of an appeal to or  
6 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket  
7 number of the prior proceeding:

8 This case was previously on appeal (docketed as Supreme Court Case  
9 No. 59630, FCH1, LLC v. Rodriguez).

10 12. Indicate whether this appeal involves child custody or visitation:

11 N/A.

12 13. If this is a civil case, indicate whether this appeal involves the possibility of  
13 settlement:

14 This case does involve the possibility of settlement.

15 Dated this 5th day of January, 2017.

16 MARQUIS AURBACH COFFING

17 By /s/ Micah S. Echols

18 Micah S. Echols, Esq.

19 Nevada Bar No. 8437

Adele V. Karoum, Esq.

20 Nevada Bar No. 11172

10001 Park Run Drive

21 Las Vegas, Nevada 89145

Attorneys for Plaintiff, Enrique Rodriguez

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **CASE APPEAL STATEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 5th day of January, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

**MORAN LAW FIRM, LLC****Contact**Darcy Flores-Nocedal  
Lew Brandon, Jr.**Email**D.NOCEDAL@MORANLAWFIRM.COM  
l.brandon@moranlawfirm.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Robert L. Eisenberg, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Attorneys for Defendant/s/ Leah DellLeah Dell, an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

## REGISTER OF ACTIONS

CASE NO. 06A531538

Enrique Rodriguez, Plaintiff(s) vs. Fiesta Palms LLC, Defendant(s)

§  
§  
§  
§  
§  
§  
§  
§

Case Type: **Negligence - Premises Liability**  
Date Filed: **11/15/2006**  
Location: **Department 15**  
Cross-Reference Case Number: **A531538**  
Supreme Court No.: **59630**  
**72098**

### PARTY INFORMATION

#### Lead Attorneys

Defendant Fiesta Palms LLC

~~Lewis W Brandon, Jr.~~  
~~Retained~~  
~~702-384-6568(W)~~

Doing Palms Casino Resort  
Business As

~~Lewis W Brandon, Jr.~~  
~~Retained~~  
~~702-384-6568(W)~~

Plaintiff Rodriguez, Enrique

Micah S. Echols  
~~Retained~~  
~~702-382-0711(W)~~

### EVENTS & ORDERS OF THE COURT

	<b>DISPOSITIONS</b>
01/26/2007	<b>Order of Dismissal Without Prejudice</b> (Judicial Officer: Walsh, Jessie) Converted Disposition: Entry Date & Time: 01/29/2007 @ 12:32 Description: ORDR OF DISMISSAL W/O PREJ(CERTAIN CLAIM Debtor: Rodriguez, Enrique Creditor: Multiple Parties Amount Awarded: \$0.00 Attorney Fees: \$0.00 Costs: \$0.00 Interest Amount: \$0.00 Total: \$0.00
03/14/2011	<b>Verdict</b> (Judicial Officer: Walsh, Jessie) Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 03/14/2011, Docketed: 03/18/2011
11/17/2011	<b>Order</b> (Judicial Officer: Walsh, Jessie) Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 11/17/2011, Docketed: 12/05/2011 Total Judgment: 149,146.18
02/15/2012	<b>Amended Judgment Upon the Verdict</b> (Judicial Officer: Walsh, Jessie) Reason: Amended Debtors: Fiesta Palms LLC (Defendant), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 02/15/2012, Docketed: 04/20/2011 Total Judgment: 6,627,763.27 Comment: Costs disallowed per Order 09-19-2011/Costs Back in 02-15-2012  09/19/2011 <b>Amended Judgment Modified</b> (Judicial Officer: Walsh, Jessie) Reason: Amended, Reduced Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 09/19/2011, Docketed: 04/20/2011 Total Judgment: 7,960,823.76 Comment: Costs disallowed per Order 09-19-2011  09/19/2011 <b>Amended Judgment Amended</b> (Judicial Officer: Walsh, Jessie) Reason: Amended Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 09/19/2011, Docketed: 04/20/2011 Total Judgment: 8,109,969.76  04/12/2011 <b>Judgment Upon the Verdict</b> (Judicial Officer: Walsh, Jessie) Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 04/12/2011, Docketed: 04/20/2011 Total Judgment: 8,109,969.76
11/04/2014	<b>Clerk's Certificate</b> (Judicial Officer: Ellsworth, Carolyn)

Debtors: Enrique Rodriguez (Plaintiff)  
Creditors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As)  
Judgment: 11/04/2014, Docketed: 11/05/2014  
Comment: Supreme Court No. 59630; Judgment Reversed, Case Remanded; Rehearing Denied

04/20/2016 **Order of Dismissal Without Prejudice** (Judicial Officer: Hardy, Joe)  
Debtors: Enrique Rodriguez (Plaintiff)  
Creditors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As)  
Judgment: 04/20/2016, Docketed: 04/21/2016

**OTHER EVENTS AND HEARINGS**

11/15/2006 **Complaint**  
COMPLAINT FILED Fee \$148.00  
06A5315380001.tif pages

11/15/2006 **Initial Appearance Fee Disclosure**  
INITIAL APPEARANCE FEE DISCLOSURE  
06A5315380002.tif pages

12/11/2006 **Affidavit**  
AFFIDAVIT OF SERVICE  
06A5315380003.tif pages

12/26/2006 **Appearance**  
APPEARANCE  
06A5315380004.tif pages

12/26/2006 **Motion**  
DEFT FIESTA PALMS'S MTN TO DISMISS PLTFS THIRD CAUSE OF ACTION/1 VR 1/30/07  
06A5315380005.tif pages

12/26/2006 **Initial Appearance Fee Disclosure**  
INITIAL APPEARANCE FEE DISCLOSURE  
06A5315380006.tif pages

01/26/2007 **Judgment**  
ORDR OF DISMISSAL W/O PREJ(CERTAIN CLAIM  
06A5315380007.tif pages

01/30/2007 **Notice of Entry of Order**  
NOTICE OF ENTRY OF ORDER  
06A5315380008.tif pages

01/31/2007 **CANCELED Motion to Dismiss** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

04/23/2007 **Answer**  
DEFENDANT FIESTA PALM'S LLC DBA PALMS CASINO RESORT'S ANSWER TO PLAINTIFF'S COMPLAINT  
06A5315380009.tif pages

04/23/2007 **Answer**  
DEFENDANT FIESTA PALM'S LLC DBA PALMS CASINO RESORT'S ANSWER TO PLAINTIFF'S COMPLAINT  
06A5315380010.tif pages

06/21/2007 **Commissioner's Decision On Request For Exemption**  
COMMISSIONERS DECISION ON REQUEST FOR EXEMPTION  
06A5315380011.tif pages

06/29/2007 **Notice of Early Case Conference**  
NOTICE OF EARLY CASE CONFERENCE  
06A5315380012.tif pages

09/24/2007 **List of Witnesses**  
PLAINTIFFS 16.1 LIST OF DOCUMENTS AND WITNESSES  
06A5315380013.tif pages

10/29/2007 **Joint Case Conference Report**  
JOINT CASE CONFERENCE REPORT  
06A5315380014.tif pages

11/05/2007 **Discovery Scheduling Order**  
DISCOVERY SCHEDULING ORDER  
06A5315380015.tif pages

01/14/2008 **List of Witnesses**  
PLTFS FIFTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380016.tif pages

01/25/2008 **Supplemental Case Conference Report**  
PLTFS SIXTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380017.tif pages

02/05/2008 **Conversion Case Event Type**  
PRETRIAL CONFERENCE VJ 11/14/08  
06A5315380019.tif pages

02/05/2008 **Order Setting Civil Non-Jury Trial**  
ORDER SETTING CIVIL BENCH TRIAL  
06A5315380021.tif pages

04/14/2008 **Association of Counsel**  
ASSOCIATION OF COUNSEL  
06A5315380022.tif pages

07/01/2008 **Supplemental**  
PLAINTIFFS SEVENTH SUPPLEMENT EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380023.tif pages

07/02/2008 **Association of Counsel**  
ASSOCIATION OF COUNSEL  
06A5315380024.tif pages

07/25/2008 **List of Witnesses**  
PLAINTIFFS EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380025.tif pages

10/09/2008 **Discovery Conference**

DISCOVERY CONFERENCE  
06A5315380026.tif pages

10/13/2008 **Supplemental**  
PLAINTIFFS NINTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380027.tif pages

10/30/2008 **Supplemental**  
PLTFS TENTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES  
06A5315380028.tif pages

10/30/2008 **List of Witnesses**  
PLAINTIFFS EXPERT DISCLOSURE  
06A5315380029.tif pages

10/30/2008 **Supplemental**  
PLAINTIFFS ELEVENTH SUPPLEMENT EARLY CASE CONFERENCE LIST OF DOCUMENT AND WITNESSES  
06A5315380030.tif pages

11/04/2008 **Discovery Conference** (9:00 AM) (Judicial Officer Bulla, Bonnie)  
DISCOVERY CONFERENCE Court Clerk: Jennifer Lott Heard By: BONNIE BULLA  
Result: Continuance Granted

11/14/2008 **Discovery Conference** (9:00 AM) (Judicial Officer Bulla, Bonnie)  
DISCOVERY CONFERENCE Court Clerk: Jennifer Lott Heard By: BONNIE BULLA  
Parties Present  
Minutes  
Result: Matter Heard

11/25/2008 **Scheduling Order**  
AMENDED SCHEDULING ORDER  
06A5315380034.tif pages

11/26/2008 **Conversion Case Event Type**  
PRETRIAL CONFERENCE  
06A5315380032.tif pages

11/26/2008 **Order Setting Civil Non-Jury Trial**  
ORDER SETTING CIVIL NON-JURY TRIAL  
06A5315380035.tif pages

02/03/2009 **Motion**  
DEFT'S MTN TO COMPEL VR 3/5/09 FOR PRODUCTION OF DOCS/09  
06A5315380037.tif pages

02/11/2009 **Notice**  
NOTICE OF DEPO DUCES TECUM OF BRANDY BEAVERS  
06A5315380038.tif pages

03/09/2009 **Notice**  
NOTICE TO TAKE DEPOSITION OF DR JOHN G NORK MD  
06A5315380040.tif pages

03/10/2009 **Opposition**  
OPPOSITION TO MTN TO COMPEL RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS TO COMPEL FURTHER  
RESPONSES TO INTERROGATORIES FOR SANCTIONS AND MTN TO COMPEL INDEPENDENT MEDICAL EXAMINATIONS OF PLAINTIFF  
06A5315380041.tif pages

03/11/2009 **CANCELED Motion to Compel** (9:00 AM) (Judicial Officer Bulla, Bonnie)  
Vacated

03/16/2009 **CANCELED Pre Trial Conference** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

03/30/2009 **CANCELED Calendar Call** (3:00 PM) (Judicial Officer Walsh, Jessie)  
Vacated

04/06/2009 **CANCELED Bench Trial** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

04/14/2009 **Demand for Jury Trial**  
DEMAND FOR JURY TRIAL  
06A5315380043.tif pages

04/14/2009 **Demand for Jury Trial**  
DEMAND FOR JURY TRIAL  
06A5315380044.tif pages

05/01/2009 **Supplement**  
Plaintiff's Fourteenth Supplemental Early Case Conference List of Documents and Witnesses

05/01/2009 **Supplement**  
Plaintiff's Thirteenth Supplemental Early Case Conference List of Documents and Witnesses

05/08/2009 **Motion to Amend Complaint**  
NRCP 10 (a) Motion to Amend Complaint to Substitute Party

06/08/2009 **Motion to Amend Complaint** (3:00 AM) (Judicial Officer Walsh, Jessie)  
NRCP 10 (a) Motion to Amend Complaint to Substitute Party  
Minutes  
06/10/2009 Reset by Court to 06/08/2009  
06/10/2009 Reset by Court to 06/10/2009  
Result: Motion Granted

07/08/2009 **Amended Complaint**

07/10/2009 **Order**  
Order After Hearing

08/05/2009 **Notice of Entry of Order**

08/20/2009 **Affidavit of Due Diligence**

08/24/2009 **Motion for Order**  
Motion For Order fro Publication and Posting of Summons and Affidavit in Support of Motion and Order

09/03/2009 **Certificate of Service**

09/30/2009 **Motion** (3:00 AM) (Judicial Officer Walsh, Jessie)  
Plaintiff's Motion For Order for Publication and Posting of Summons and Affidavit in Support of Motion and Order  
Minutes

09/30/2009 *Reset by Court to 09/30/2009*

10/23/2009 **Result:** Matter Continued  
**Motion to Extend**  
*Motion for Extension of Time to Service Amended Summons Amended Complaint*

11/09/2009 **CANCELED Pre Trial Conference** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Vacated*  
*11/09/2009 Reset by Court to 11/09/2009*

11/09/2009 **Certificate of Service**

11/23/2009 **Calendar Call** (3:00 PM) (Judicial Officer Walsh, Jessie)  
*CALENDAR CALL*  
*11/23/2009 Reset by Court to 11/23/2009*

11/23/2009 **Motion** (3:00 AM) (Judicial Officer Walsh, Jessie)  
*Motion for Extension of Time to Service Amended Summons Amended Complaint*  
Minutes  
*11/25/2009 Reset by Court to 11/23/2009*

11/24/2009 **Result:** Motion Granted  
**Stipulation and Order**  
*Stipulation and Order to Continue Discovery and Trial (Second Request)*

11/25/2009 **Notice of Entry of Order**  
*Notice of Entry of Order*

12/04/2009 **Order Granting Motion**  
*Order Granting Motion for Publication and Posting of Amended Summons*

12/04/2009 **Order Granting Motion**  
*Order Granting Motion for Extension of Time to Serve Amended Summons and Amended Complaint*

12/07/2009 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Vacated - per Stipulation and Order*  
*12/07/2009 Reset by Court to 12/07/2009*

01/11/2010 **Affidavit of Publication**

01/22/2010 **Affidavit of Posting**

01/26/2010 **Affidavit of Compliance**

02/25/2010 **Default**  
*Default \_ Brandy L Beavers*

03/03/2010 **Request**  
*Request for Trial Setting*

05/11/2010 **Amended Order**  
*Amended Order Setting Bench Trial*

06/15/2010 **Disclosure of Expert**  
*Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resort's Disclosure of Experts*

07/14/2010 **Designation of Witness**  
*Rebuttal Expert Disclosure*

07/28/2010 **Affidavit**  
*Affidavit of Keith R. Gillette in Support of Motion to Compel Independent Medical Examination of Plaintiff*

07/28/2010 **Motion**  
*Motion to Compel Responses to Request for Production of Documents, to Compel Further Responses to Interrogatories; Request for Sanctions; and Motion to Compel Independent Medical Examination of Plaintiff*

08/03/2010 **Affidavit in Support**  
*Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Compel Independent Medical Examination of Plaintiff; and Order Shortening Time*

08/06/2010 **Receipt of Copy**  
*Receipt of Copy*

08/06/2010 **Amended Notice**  
*Amended Notice of Motion*

08/09/2010 **Opposition**  
*Plaintiff's Opposition To Defendant's Motion To Compel Responses To Request For Production Of Documents, To Compel Further Responses To Interrogatories; Request For Sanctions; And Motion To Compel Independent Medical Examination Of Plaintiff*

08/11/2010 **Motion to Compel** (10:00 AM) (Judicial Officer Bulla, Bonnie)  
*Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Compel Independent Medical Examination of Plaintiff; and Order Shortening Time*  
Parties Present  
Minutes

08/20/2010 **Result:** Denied Without Prejudice  
**Notice of Motion**  
*Notice Of Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, D/B/A/ The Palms Casino Resort, Et Al's Motion In Limine To Exclude Evidence (No. 1) Of Punitive Damages*

08/26/2010 **Certificate of Mailing**  
*Certificate of Mailing*

08/26/2010 **Order Shortening Time**  
*Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses on Ex Parte Application for Order Shortening Time; Order Shortening Time*

08/30/2010 **Certificate of Mailing**  
*Certificate of Service*

09/01/2010 **CANCELED Motion to Compel** (9:00 AM) (Judicial Officer Bulla, Bonnie)  
*Vacated*  
*matter heard on ost on 8/11/10.*

09/02/2010 **Opposition to Motion in Limine**  
*Plaintiff's Opposition to Defendant Fiesta Palms, L.L.C., d/b/a Palms Resort Casino's Motion in Limine to Exclude Evidence (No. 1) of Punitive Damages*

09/07/2010 **Affidavit**  
*Affidavit of Keith R. Gillette in Support of Defendant's Opposition to Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses*

09/07/2010 **Opposition to Motion**  
*Defendant's Opposition to Plaintiff's Motion on Shortened Time to Strike Defendants' Rebuttal Expert Witnesses*

09/13/2010 **Reply in Support**  
*Reply in Support of Defendant Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Punitive Damages*

09/15/2010 **Pre Trial Conference** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Parties Present  
Minutes  
09/10/2010 Reset by Court to 09/15/2010  
Result: Matter Heard

09/15/2010 **Motion to Strike** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses on Ex Parte Application for Order Shortening Time; Order*  
Parties Present  
Minutes  
Result: Denied

09/24/2010 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

09/27/2010 **Pre-trial Memorandum**  
*Plaintiff's Pre-Trial Memorandum*

09/29/2010 **Motion to Strike**  
*Plaintiff's Motion to Strike Defendants' Expert Witnesses on Ex Parte Application for Order Shortening Time; Order*

10/04/2010 **CANCELED Bench Trial** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

10/04/2010 **Opposition**  
*Defendant Fiesta Palms, LLC's Opposition to Plaintiff's Motion to Strike Defendant's Expert Witnesses*

10/04/2010 **Affidavit**  
*Affidavit of Kenneth C. Ward in Support of Defendant Fiesta Palms, LLC's Opposition to Plaintiff's Motion to Strike Defendant's Expert Witnesses*

10/04/2010 **Certificate of Service**  
*Certificate of Service*

10/06/2010 **Motion to Strike** (9:30 AM) (Judicial Officer Bulla, Bonnie)  
*Plaintiff's Motion to Strike Defendants' Expert Witnesses on Ex Parte Application for Order Shortening Time; Order*  
Parties Present  
Minutes  
Result: Denied Without Prejudice

10/06/2010 **Pre-trial Memorandum**  
*Fiesta Palms, LLC's Pre-Trial Memorandum*

10/07/2010 **Order Denying Motion**  
*Order Denying Plaintiff's Motion on Shortened Time to Strike Defendant's Rebuttal Expert Witnesses*

10/12/2010 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer Walsh, Jessie)  
Vacated

10/13/2010 **Motion in Limine** (11:00 AM) (Judicial Officer Walsh, Jessie)  
*Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, D/B/A/ The Palms Casino Resort, Et Al's Motion In Limine To Exclude Evidence (No. 1) Of Punitive Damages(Via - Court Call System)*  
Parties Present  
Minutes  
09/29/2010 Reset by Court to 10/13/2010  
10/13/2010 Reset by Court to 10/13/2010  
Result: Denied

10/18/2010 **Motion**  
*Defendant's Motion to Set Matter for Jury Trial On Ex Parte Application for Order Shortening Time; Order*

10/19/2010 **Opposition to Motion**  
*Plaintiff's Opposition to Motion to Set Matter for Jury Trial*

10/20/2010 **Motion** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Defendant's Motion to Set Matter for Jury Trial On Ex Parte Application for Order Shortening Time; Order*  
Parties Present  
Minutes  
Result: Denied

10/25/2010 **Jury Trial** (9:00 AM) (Judicial Officer Walsh, Jessie)  
**10/25/2010, 10/26/2010**  
Parties Present  
Minutes  
Result: Continued

10/27/2010 **Bench Trial** (12:00 PM) (Judicial Officer Walsh, Jessie)  
**10/27/2010, 10/28/2010, 11/01/2010, 11/02/2010, 11/03/2010, 11/04/2010, 11/05/2010, 11/08/2010, 11/09/2010, 11/10/2010**  
Parties Present  
Minutes  
Result: Trial Continues

11/10/2010 **Motion to Strike**  
*Plaintiff's Motion to Strike*

11/10/2010 **Motion for Judgment**  
*Plaintiff's Rule 50 Motion for Judgment on Liability*

11/18/2010 **Reporters Transcript**  
*Reporter s Partial Transcript Bench Trial Testimony of Vikki Kooinga*

11/18/2010 **Reporters Transcript**  
*Reporter s Partial Transcript Bench Trial Testimony of Sheri Long*

11/18/2010 **Reporters Transcript**  
*Reporter s Partial Transcript Bench Trial Testimony of Dr. Louis Mortillaro*

11/18/2010 **Reporters Transcript**  
*Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume II*

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume I

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Maryanne Shannon

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Joseph Schifini

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Joseph Schifini

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Russell Shah Volume I

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume III

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Russell Shah Volume II

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Forrest P. Franklin

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Maria Perez

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Frank Sciulla

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial Testimony of Dr. Thomas Cargill

11/18/2010 **Reporters Transcript**  
Reporter s Partial Transcript Bench Trial

11/22/2010 **Reporters Transcript**  
Thursday, November 5, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Dr. George Becker

11/22/2010 **Reporters Transcript**  
Thursday, November 4, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Nicholas Tavaglione

11/22/2010 **Reporters Transcript**  
Friday, November 5, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Dr. Jacob Tauber

11/22/2010 **Reporters Transcript**  
Thursday, November 4, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Terrance Dinneen

11/23/2010 **Opposition to Motion**  
Defendant's Opposition to Plaintiff's Rule 50 Motion for Judgment on Liability

11/23/2010 **Opposition to Motion**  
Defendant The Palms' Opposition to Plaintiff's Motion to Strike

11/24/2010 **Brief**  
Defendant The Palms' Post-Trial Brief

12/08/2010 **Reply to Opposition**  
Plaintiff's Reply to Opposition to Motion to Strike Expert Witnesses' Trial Testimony

12/08/2010 **Reply to Opposition**  
Plaintiff's Reply to Opposition to Plaintiff's Rule 50 Motion for Judgment on Liability

12/08/2010 **Motion to Strike**  
Plaintiff's Motion to Strike Defendant's Post-Trial Brief on Ex Parte Application for Order Shortening Time; Order

12/10/2010 **Certificate of Service**  
Certificate of Service

12/13/2010 **Opposition to Motion**  
Defendant's Opposition To Plaintiff's Motion To Strike Palms' Posttrial Brief

01/11/2011 **Reply to Opposition**  
Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion to Strike Post-Trial Brief

01/13/2011 **Trial Memorandum**  
Plaintiff's Confidential Trial Brief

01/14/2011 **Certificate of Service**  
Certificate of Service

01/14/2011 **Opposition to Motion**  
Plaintiff's Opposition to Defendants' Motion for Mistrial

01/18/2011 **Certificate of Service**  
Certificate of Service for Defendants Fiesta Palms, Motion for Mistrial, or, alternately, Motion to Strike Plaintiffs Confidential Pretrial Briefs on Ex Parte Application for Order Shortening Time; Order

01/20/2011 **Motion**  
Defendant Fiesta Palms LLC's Motion for Mistrial OR Alternatively Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs on Ex Parte Application for Order Shortening Time; Order

01/26/2011 **Reply in Support**  
Reply in Support of the Palms' Motion for Mistrial, or, Alternatively, Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs

01/27/2011 **Hearing** (9:30 AM) (Judicial Officer Walsh, Jessie)  
Pltf's Rule 50 Motion re: Liability

Parties Present

Minutes

12/15/2010 Reset by Court to 01/18/2011

01/18/2011 Reset by Court to 01/27/2011

Result: Matter Heard

01/27/2011 **Motion to Strike** (9:30 AM) (Judicial Officer Walsh, Jessie)  
Motion to Strike Expert Witness Testimony

12/15/2010 Reset by Court to 12/15/2010

12/15/2010 Reset by Court to 01/18/2011

01/18/2011 Reset by Court to 01/27/2011

Result: Granted

01/27/2011 **Motion to Strike** (9:30 AM) (Judicial Officer Walsh, Jessie)  
Plaintiff's Motion to Strike Defendant's Post-Trial Brief

12/15/2010 Reset by Court to 01/18/2011

01/18/2011 Reset by Court to 01/27/2011



Result: Granted

01/27/2011 **Motion** (9:30 AM) (Judicial Officer Walsh, Jessie)  
*Defendant's Motion for Mistrial, or Alternatively, Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs*  
Result: Motion Denied

03/10/2011 **Findings of Fact, Conclusions of Law and Order**  
*Findings of Fact, Conclusions of Law, and Order*

03/10/2011 **Findings of Fact, Conclusions of Law and Order**  
*Findings of Fact, Conclusions of Law, and Order*

03/10/2011 **Findings of Fact, Conclusions of Law and Order**  
*Findings of Fact, Conclusions of Law, and Order*

03/10/2011 **Findings of Fact, Conclusions of Law and Order**  
*Findings of Fact, Conclusions of Law and Order*

03/14/2011 **Notice of Entry of Order**  
*Notice of Entry of Order*

03/14/2011 **Notice of Entry of Order**  
*Notice of Entry of Order*

03/14/2011 **Notice of Entry of Order**  
*Notice of Entry of Order*

03/14/2011 **Notice of Entry of Order**  
*Notice of Entry of Order*

03/14/2011 **Verdict**  
*Verdict*

03/15/2011 **Memorandum of Costs and Disbursements**  
*Plaintiff's Memorandum of Costs and Disbursements Pursuant to NRS 18.020*

03/17/2011 **Notice of Entry**  
*Notice of Entry of Verdict*

03/21/2011 **Motion**  
*Defendant Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resorts' Notice of Motion and Motion to Tax Costs*

03/22/2011 **Memorandum**  
*Memorandum Re: Pre-Judgment Interest*

03/25/2011 **Declaration**  
*Declaration of Kenneth C Ward in Support of Defendant Fiesta Palms LLC's Motion for New Trial*

03/25/2011 **Declaration**  
*Declaration of Kenneth C Ward in Support of Defendant Fiesta Palms LLC's Motion for New Trial*

03/25/2011 **Points and Authorities**  
*DEFENDANT FIESTA PALMS, LLC DBA THE PALMS CASINO RESORT's MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF ITS MOTION FOR NEW TRIAL*

03/28/2011 **Declaration**  
*Declaration of Kenneth C. Ward in Support of Defendant Fiesta Palms, LLC's Motion for New Trial*

03/28/2011 **Certificate of Mailing**  
*Certificate of Service of Defendant Fiesta Palms, LLC's Motion for New Trial*

03/28/2011 **Points and Authorities**  
*Defendant Fiesta Palms, LLC dba The Palms Casino Resort's Memorandum of Points & Authorities in Support of its Motion for New Trial*

03/28/2011 **Notice of Motion**  
*Defendant Fiesta Palms, LLC's Notice of Motion and Motion for New Trial*

03/29/2011 **Motion for Stay of Execution**

04/01/2011 **Motion**  
*Defendant Fiesta Plams, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resorts' Motion or Request for The Court to Enter its Findings of Facts, Conclusions of Law, and Judgment in Accordance with NRCP 52 and 58*

04/01/2011 **Reply**  
*Defendant Fiesta Plams, LLC's Reply Memorandum/Opposition to Plaintiff's Memorandum Re: Pre-Judgment Interest*

04/04/2011 **Certificate of Service**  
*Certificate of Service of Defendant Fiesta Palms, LLC's Motion for New Trial*

04/04/2011 **Opposition to Motion**  
*Opposition to Motion to Stay Execution of Judgment*

04/05/2011 **Motion for Stay of Execution** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Deft Fiesta Palms, LLC's Motion For Stay of Execution of Judgment and Order Shortening Time; Affidavit of Keith R. Gillette In Support Thereof; Memorandum of Points and Authorities*  
Minutes

Result: Off Calendar

04/05/2011 **Opposition to Motion**  
*Opposition to Defendant Fiesta Palms, L.L.C., d/b/a The Palms Casino's Motion to Tax [SIC] Costs*

04/05/2011 **Memorandum**  
*Amended Memorandum Re: Pre-Judgment Interest*

04/11/2011 **Notice**  
*Notice of Hearing of Defendant Fiesta Palms, LLC's Motion to Stay Execution of Judgment*

04/11/2011 **Notice**  
*Notice of Hearing on Defendant Fiesta Palms, LLC's Motion to Tax Costs*

04/12/2011 **Judgment on Jury Verdict**  
*Judgment on the Verdict*

04/13/2011 **Reply**  
*Defendant Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casnio Resorts' Reply to Plaintiff's Opposition to the Motion to Tax Costs*

04/14/2011 **Certificate of Mailing**  
*Certificate of Service Re Hearing On Defendant Fiesta Palms LLC's Motion to Stay Execution of Judgment [May 12, 2011]*

04/14/2011 **Certificate of Mailing**  
*Certificate of Service Re Hearing On Defendant Fiesta Palms, LLC's Motion to Tax Costs [May 12, 2011]*

04/15/2011 **Notice of Entry of Judgment**  
*Notice of Entry of Judgment*

04/21/2011 **Finding of Fact and Conclusions of Law**  
*Finding of Fact and Conclusion of Law in Support of Verdict*

04/22/2011 **Opposition to Motion**  
*Plaintiff's Opposition to Defendants' Motion for New Trial*

04/27/2011 **Notice of Entry**  
*Notice of Entry of Findings of Fact and Conclusions of Law in Support of Verdict*

04/28/2011 **CANCELED Motion** (3:00 AM) (Judicial Officer Walsh, Jessie)  
*Vacated - On in Error*  
*Notice of Motion not filed.*

05/02/2011 **Reply**  
*Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, d/b/a The Palms Casino Resort's Reply to Plaintiff's Opposition to the Motion for New Trial*

05/02/2011 **Notice of Motion**  
*Notice of Motion and Motion to Amend Judgment on the Verdict*

05/02/2011 **Notice**  
*Notice of Hearing on Motion to Amend Judgment on the Verdict*

05/05/2011 **Certificate of Mailing**  
*Certificate of Service Re Hearing on Defendant Fiesta Palms, LLC's Motion to Amend Judgment on the Verdict*

05/11/2011 **Association of Counsel**  
*Association of Counsel*

05/12/2011 **Stipulation and Order**  
*Stipulation and Order*

05/13/2011 **Notice of Entry of Stipulation and Order**  
*Notice of Entry of Order*

05/18/2011 **Mediation Settlement**  
*Mediation Settlement*

05/31/2011 **CANCELED Motion For Stay** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Vacated*  
*05/12/2011 Reset by Court to 05/31/2011*

06/15/2011 **Affidavit in Support**  
*Affidavit of Keith R. Gillette in Support of Defendant's Motion to Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011; and [Proposed Order]*

06/15/2011 **Memorandum of Points and Authorities**  
*Memorandum of Points and Authorities in Support of Fiesta Palms, LLC's Motion to Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011*

06/15/2011 **Affidavit in Support**  
*Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011; and [Proposed] Order*

06/16/2011 **Motion**

06/17/2011 **Receipt of Copy**  
*Receipt of Copy*

06/21/2011 **Motion** (9:00 AM) (Judicial Officer Walsh, Jessie)  
*Application for Order Shortening Time, Notice of Motion and Motion To Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011*  
Parties Present  
Minutes  
Result: Granted

06/27/2011 **Notice of Hearing**  
*Notice of Hearings Re: (1) Motion to Tax Costs; (2) Motion for New Trial; (3) Motion to Amend Judgment on the Verdict.*

06/30/2011 **Amended Notice**  
*Amended Notice of Hearings Re: (1) Motion to Tax Costs; (2) Motion for New Trial; (3) Motion to Amend Judgment on the Verdict*

07/05/2011 **Motion for New Trial** (11:00 AM) (Judicial Officer Walsh, Jessie)  
*Deft's Motion for a New Trial - (Court Call)*  
*05/05/2011 Reset by Court to 05/31/2011*  
*07/05/2011 Reset by Court to 07/05/2011*  
Result: Denied

07/05/2011 **Motion** (11:00 AM) (Judicial Officer Walsh, Jessie)  
*Deft's Motion to Tax Costs*  
*05/12/2011 Reset by Court to 05/31/2011*  
*07/05/2011 Reset by Court to 07/05/2011*  
Result: Granted

07/05/2011 **Motion to Amend Judgment** (11:00 AM) (Judicial Officer Walsh, Jessie)  
*Deft Fiesta Palms Notice of Hearing on Motion to Amend Judgment on the Verdict - Court Call*  
*06/02/2011 Reset by Court to 07/05/2011*  
*07/05/2011 Reset by Court to 07/05/2011*  
Result: Granted

07/05/2011 **All Pending Motions** (11:00 AM) (Judicial Officer Walsh, Jessie)  
Parties Present  
Minutes  
Result: Matter Heard

08/18/2011 **Motion**  
*Motion to Require Posting of Supersedeas Bond; Application for Order Shortening Time; Order*

08/19/2011 **Certificate of Service**  
*Certificate of Service*

08/29/2011 **Amended Notice**  
*Amended Notice of Hearing Regarding Plaintiff's Motion to Require Posting of Supersedeas Bond*

08/30/2011 **Opposition to Motion**  
*Defendant's Opposition to Plaintiff's Motion to Require Posting of Supersedeas Bond*

08/30/2011 **Affidavit in Support**  
*Affidavit of Keith R. Gillette in Support of Opposition to Plaintiff's Motion to Require Posting of Supersedeas Bond*

09/02/2011 **Reply to Opposition**  
*Reply to Opposition to Motion to Require Defendants to Post Supersedeas Bond*

09/06/2011 **Motion** (9:00 AM) (Judicial Officer Walsh, Jessie)

*Pltf's Motion to Require Posting of Supersedeas Bond; Application for Order Shortening Time; Order*  
Parties Present  
Minutes  
 08/23/2011 *Reset by Court to 09/06/2011*  
 Result: Denied  
 09/19/2011 **Order**  
     *Order After Hearing*  
 09/19/2011 **Findings of Fact, Conclusions of Law and Order**  
     *Findings of Fact, Conclusions of Law and Order*  
 09/19/2011 **Findings of Fact, Conclusions of Law and Order**  
     *Findings of Fact, Conclusions of Law and Order*  
 09/22/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order - Motion to Tax Costs*  
 09/22/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order - Motion to Lift Stay of Proceedings*  
 09/22/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order - Motion to Amend Judgment*  
 09/29/2011 **Findings of Fact, Conclusions of Law and Order**  
     *Findings of Fact, Conclusions of Law, and Order Denying Defendant's Motion for New Trial*  
 10/04/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order*  
 10/05/2011 **Motion to Reconsider**  
     *Plaintiff's Motion for Reconsideration of Order Granting Defendant's Motion to Retax Costs; Ex Parte Application for Order Shortening Time; Order*  
 10/14/2011 **Opposition to Motion**  
     *Defendant Fiesta Palms, LLC, A Nevada Limited Liability Compay, d/b/a The Palms Casino Resorts' Opposition to Plaintiff's Motion for Reconsideration of Order to Retax Costs*  
 10/18/2011 **Notice of Motion**  
     *Notice of Motion and Motion to Amend the Order Denying Defendant's Motino for a New Trial*  
 10/18/2011 **Affidavit in Support**  
     *Affidavit of Keith R. Gillette in Support of Motion to Amend Order Denying Defendant's Motion for New Trial*  
 10/18/2011 **Reply to Opposition**  
     *Plaintiff's Reply to Defendant's Opposition to Motion for Reconsideration of Order Granting Defendant's Motion to Retax Costs*  
 10/18/2011 **Memorandum of Points and Authorities**  
     *Memorandum of Points and Authorities in support of Motion to Amende the Order Denying Defendant's Motion for New Trial*  
 10/18/2011 **Association of Counsel**  
     *Association of Counsel*  
 10/20/2011 **Certificate of Mailing**  
     *Certificate of Mailing*  
 10/25/2011 **Certificate of Service**  
     *Certificate of Service*  
 10/27/2011 **Motion to Reconsider** (3:00 AM) (Judicial Officer Walsh, Jessie)  
     *Pltf's Motion for Reconsideration of Order Granting Deft's Motion to Retax Costs*  
Minutes  
 10/20/2011 *Reset by Court to 10/27/2011*  
 Result: Granted  
 11/04/2011 **Opposition to Motion**  
     *Opposition to Motion to Amend the Order Denying Defnedant's Motion for New Trial*  
 11/04/2011 **Case Appeal Statement**  
     *Case Appeal Statement*  
 11/04/2011 **Notice of Appeal**  
     *Notice of Appeal*  
 11/04/2011 **Notice of Appeal**  
     *Notice of Appeal*  
 11/08/2011 **Order Shortening Time**  
     *Plaintiff's Renewed Motion to Require Posting of Supersedeas Bond; Ex Parte Application for Order Shortening Time; Order*  
 11/09/2011 **Certificate of Service**  
     *Certificate of Service*  
 11/09/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order After Hearing Re Plaintiff's Motion to Require Posting of Supersedeas Bond*  
 11/14/2011 **Declaration**  
     *Declaration of Jason A. Rose in Support of Fiesta Palms, LLC, d/b/a The Palms Casino Resport's Opposition to Plaintiff's Renewed Motion to Require Supersedeas Bond*  
 11/14/2011 **Opposition to Motion**  
     *Fiesta Palms, LLC, d/b/a The Palms Casino Resort's Opposition to Plaintiff's Renewed Motion to Require Supersedeas Bond*  
 11/15/2011 **Motion** (9:30 AM) (Judicial Officer Walsh, Jessie)  
     *Pltf's Renewed Motion to Require Posting of Supersedeas Bond*  
Parties Present  
Minutes  
 Result: Granted  
 11/17/2011 **Order**  
 11/17/2011 **Order Granting Motion**  
     *Order*  
 11/17/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order*  
 11/17/2011 **Notice of Entry of Order**  
     *Notice of Entry of Order*  
 11/28/2011 **Transcript of Proceedings**  
     *Transcript of Proceedings Plaintiffs' Renewed Motion To Require Posting Of Supercedes Bond November 15, 2011*  
 12/01/2011 **Motion** (3:00 AM) (Judicial Officer Walsh, Jessie)  
     *Deft's Motion to Amend the Order Denying Defendant's Motion for a New Trial*

Minutes  
Result: Granted in Part  
12/13/2011 **Amended**  
*Amended or Supplemental Notice of Appeal*  
12/13/2011 **Case Appeal Statement**  
*Amended or Supplemental Case Appeal Statement*  
01/27/2012 **Motion to Withdraw As Counsel**  
*Motion to Clarify Record and Withdraw of Counsel on Order Shortening Time*  
02/02/2012 **Motion to Clarify** (3:00 AM) (Judicial Officer Walsh, Jessie)  
*Jeffery A. Bendavid, ESQ., Of Moran Laz Firm, LLC motion to Clarify Record and Withdraw of Counsel on Order Shortening Time*  
Minutes  
Result: Granted  
02/15/2012 **Amended Judgment**  
*Amended Judgment on the Verdict*  
03/09/2012 **Notice of Entry of Judgment**  
*Notice of Entry of Amended Judgment on the Verdict*  
03/13/2012 **Amended Notice**  
*Second Amended or Supplemental Notice of Appeal*  
03/13/2012 **Case Appeal Statement**  
*Second Amended or Supplemental Case Appeal Statement*  
03/22/2012 **Request**  
*Request for Transcripts of Proceedings*  
03/27/2012 **Order Granting Motion**  
*Order Granting Motion to Clarify Record and Withdraw of Counsel on Order Shortening Time*  
03/30/2012 **Notice of Entry**  
*Notice of Entry of Order Granting Motion to Clarify Record and Withdraw of Counsel on Order Shortening Time*  
05/04/2012 **Association of Counsel**  
*Notice of Disassociation of Counsel*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings Defendant's Motion for Mistrial or Alternatively Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs; Plaintiff's Motion to Strike Defendant's Post-Trial Brief Motion to Strike Expert Witness Testimony and Plaintiff's Rule 50 Motion Re: Liability January 27, 2011*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings Defendant's Motion for New Trial, Defendant's Motion to Amend Judgment on the Verdict and Defendant's Motion to Tax Costs July 5, 2011*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings \*Partial Transcript\* Bench Trial (Closing Arguments) November 10, 2010*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings \*Partial Transcript\* Bench Trial - Day 1 (Opening Statements and Deposition of Nathan Heaps, M.d.) October 25, 2010*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings Defendant's Motion for Jury Trial October 20, 2010*  
05/21/2012 **Transcript of Proceedings**  
*Transcript of Proceedings Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses September 15, 2010*  
10/30/2012 **Substitution of Attorney**  
*Substitution of Counsel*  
07/15/2014 **Notice of Hearing**  
08/05/2014 **Status Check** (10:00 AM) (Judicial Officer Walsh, Jessie)  
**08/05/2014, 08/12/2014, 08/19/2014**  
*Status Check: Supreme Crt. order*  
Parties Present  
Minutes  
08/05/2014 *Reset by Court to 08/05/2014*  
Result: Continued  
08/19/2014 **Notice of Department Reassignment**  
10/13/2014 **Order**  
*Order Setting Hearing Further Proceedings Re: Supreme Court Reversal and Remand*  
10/23/2014 **Motion**  
*Motion to: (1) Vacate And Strike Filings and Orders Entered Prior to Issuance of Nevada Supreme Court Remittitur, Including the Reassignment of Judge Timothy C. Williams, and (2) Vacate November 6, 2014, Hearing on Order Shortening Time*  
10/23/2014 **Receipt of Copy**  
*Receipt Of Copy*  
10/23/2014 **Notice of Department Reassignment**  
10/23/2014 **Peremptory Challenge**  
*Peremptory Challenge Of Judge*  
10/24/2014 **Notice of Change of Hearing**  
11/03/2014 **Opposition to Motion**  
*OPPOSITION TO: (1) Vacate and Strike Filings and Orders Entered Prior to Issuance of Nevada Supreme Court Remittitur, Including the Reassignment of Judge Timothy C. Williams, and (2) Vacate November 6, 2014, Hearing on Order Shortening Time*  
11/04/2014 **NV Supreme Court Clerks Certificate/Judgment -Remanded**  
*Nevada Supreme Court Clerk's Certificate Judgment - Reversed and Remand; Rehearing Denied and Amending Opinion*  
11/06/2014 **Hearing** (9:00 AM) (Judicial Officer Togliatti, Jennifer)  
*Order Setting Hearing Further Proceedings Re: Supreme Court Reversal And Remand*  
11/06/2014 *Reset by Court to 11/14/2014*  
11/14/2014 *Reset by Court to 11/06/2014*  
Result: Matter Heard  
11/06/2014 **Motion to Vacate** (9:00 AM) (Judicial Officer Togliatti, Jennifer)  
*Motion to: (1) Vacate And Strike Filings and Orders Entered Prior to Issuance of Nevada Supreme Court Remittitur, Including the Reassignment of Judge Timothy C. Williams, and (2) Vacate November 6, 2014, Hearing on Order Shortening Time*  
11/06/2014 *Reset by Court to 11/14/2014*  
11/14/2014 *Reset by Court to 11/06/2014*

Result: Denied Without Prejudice

11/06/2014 **All Pending Motions** (9:00 AM) (Judicial Officer Togliatti, Jennifer)  
Parties Present  
Minutes

Result: Matter Heard

11/20/2014 **Order Denying Motion**  
*Order Denying Motion To: (1) Vacate And Strike Filings And Orders Entered Prior To Issuance Of Nevada Supreme Court Remittitur, Including The Reassignment Of Judge Timothy C. Williams, And (2) Vacate November 6, 2014 Hearing On Order Shortening Time*

11/21/2014 **Notice of Entry of Order**  
*Notice Of Entry Of Order Denying Motion To: (1) Vacate And Strike Filings And Orders Entered Prior To Issuance Of Nevada Supreme Court Remittitur Including The Reassignment Of Judge Timothy C. Williams, And (2) Vacate November 6, 2014 Hearing On Order Shortening Time*

11/24/2014 **Motion to Withdraw As Counsel**  
*Benson, Bertoldo, Baker & Carter's Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time*

11/24/2014 **Notice of Hearing**  
*Notice of Hearing: Benson, Bertoldo, Baker & Carter's Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time*

12/02/2014 **Notice of Non Opposition**  
*Notice of Non-Opposition to Benson, Bertoldo, Baker & Carter's Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time*

12/04/2014 **Order**  
*Order Scheduling Status Check: Trial Setting*

12/05/2014 **CANCELED Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
*Vacated - On in Error*  
*Motion to Withdraw as Counsel for Plt's Rodriguez*

12/05/2014 **CANCELED Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
*Vacated - per Secretary*  
*Benson, Bertoldo, Baker & Carter's Motion to Withdraw as Attorneys for Plaintiff Enrique Rodriguez; and Hearing on Order Shortening Time*

12/09/2014 **Order to Withdraw as Attorney of Record**  
*Order Granting Benson, Bertoldo, Baker & Carter's Motion To Withdraw As Attorneys For Plaintiff Enrique Rodriguez; And Hearing On Order Shortening Time*

12/09/2014 **Notice of Entry of Order**  
*Notice of Entry of Order Granting Benson, Bertoldo, Baker & Carter's Motion To Withdraw As Attorneys For Plaintiff Enrique Rodriguez; And Hearing On Order Shortening Time*

01/09/2015 **Status Check: Trial Setting** (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
**01/09/2015, 02/13/2015**  
Parties Present  
Minutes

Result: Continued

02/11/2015 **Substitution of Attorney**  
*Substitution of Attorneys*

02/12/2015 **Notice**  
*Notice of Substitution of Attorneys*

02/13/2015 **Motion**  
*Motion to Set Jury Trial*

02/13/2015 **Demand for Jury Trial**  
*Demand for Jury Trial*

02/19/2015 **Notice of Department Reassignment**  
*Notice of Department Reassignment*

02/19/2015 **Peremptory Challenge**  
*Plaintiff's Peremptory Challenge of Judge*

03/20/2015 **CANCELED Motion to Set Trial Date** (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
*Vacated - Moot*  
*Motion to Set Jury Trial*

03/25/2015 **Status Check** (9:00 AM) (Judicial Officer Bonaventure, Joseph T.)  
**03/25/2015, 04/01/2015, 04/08/2015, 04/29/2015, 05/13/2015**  
*Status Check: New Counsel*  
Parties Present  
Minutes  
*03/20/2015 Reset by Court to 03/25/2015*  
*04/22/2015 Reset by Court to 04/29/2015*

Result: Continued

03/31/2015 **Motion**  
*Motion to Set Jury Trial*

03/31/2015 **Notice of Motion**  
*Notice of Motion*

05/04/2015 **Case Reassigned to Department 2**  
*Case reassigned from Judge Abbi Silver Dept 15*

05/12/2015 **Motion for Settlement Conference**  
*Plaintiff's Motion For A Mandatory Settlement Conference*

05/12/2015 **Notice of Appearance**  
*Notice of Appearance*

05/13/2015 **Motion** (9:00 AM) (Judicial Officer Scotti, Richard F.)  
*Fiesta Palms, LLC's., Motion to Set Jury Trial*  
*05/04/2015 Reset by Court to 05/11/2015*  
*05/11/2015 Reset by Court to 05/13/2015*

Result: Recused

05/13/2015 **Opposition to Motion**  
*Plaintiff's Opposition To Defendants' Motion For Jury Trial*

05/13/2015 **All Pending Motions** (9:00 AM) (Judicial Officer Scotti, Richard F.)

Parties Present  
Minutes  
 Result: Recused  
 05/18/2015 **Notice of Department Reassignment**  
*Notice of Department Reassignment*  
 06/01/2015 **Opposition**  
*Opposition to Plaintiff's Motion for Settlement Conference*  
 06/08/2015 **Order Scheduling Status Check**  
*Order Setting Status Check*  
 06/15/2015 **Motion for Mandatory Settlement Conference** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Plaintiff's Motion For A Mandatory Settlement Conference*  
*06/15/2015 Reset by Court to 06/15/2015*  
 Result: Denied Without Prejudice  
 06/15/2015 **Status Check** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Status Check: New Trial Date*  
 Result: Trial Date Set  
 06/15/2015 **All Pending Motions** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Plaintiff's Motion For A Mandatory Settlement Conference and Status Check: New Trial Date*  
Parties Present  
Minutes  
 Result: Trial Date Set  
 06/23/2015 **Order Setting Civil Jury Trial**  
*Fourth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call*  
 06/24/2015 **Order Denying**  
*Order Denying Plaintiff's Motion for Mandatory Settlement Conference Without Prejudice*  
 06/25/2015 **Minute Order** (10:30 AM) (Judicial Officer Hardy, Joe)  
*Minute Order Re: Deft's Motion to Set Jury Trial & Pltf's Opposition*  
Minutes  
 Result: Minute Order - No Hearing Held  
 06/25/2015 **Notice of Entry of Order**  
*Notice of Entry of Order*  
 07/22/2015 **Order Granting**  
*Order Granting Defendant's Motion to Set Jury Trial*  
 07/23/2015 **Notice of Entry of Order**  
*Notice of Entry of Order*  
 07/24/2015 **CANCELED Calendar Call** (10:00 AM) (Judicial Officer Hardy, Joe)  
*Vacated - per Judge*  
*07/24/2015 Reset by Court to 07/24/2015*  
*07/24/2015 Reset by Court to 07/24/2015*  
*07/24/2015 Reset by Court to 07/24/2015*  
 08/03/2015 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Hardy, Joe)  
*Vacated - per Judge*  
*08/03/2015 Reset by Court to 08/03/2015*  
*08/03/2015 Reset by Court to 08/03/2015*  
 09/28/2015 **Status Check** (9:30 AM) (Judicial Officer Hardy, Joe)  
*Status Check*  
Parties Present  
Minutes  
 Result: Trial Date Set  
 09/29/2015 **Order Setting Civil Jury Trial**  
*Fifth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call*  
 11/12/2015 **Amended Notice**  
*Amended Notice of Association of Counsel*  
 11/23/2015 **CANCELED Pre Trial Conference** (8:30 AM) (Judicial Officer Hardy, Joe)  
*Vacated - per Judge*  
 12/09/2015 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Hardy, Joe)  
*Vacated - per Judge*  
 12/14/2015 **CANCELED Jury Trial** (10:30 AM) (Judicial Officer Hardy, Joe)  
*Vacated - per Judge*  
 01/20/2016 **Motion to Withdraw As Counsel**  
*Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time*  
 01/20/2016 **Notice**  
*Notice Of Filing Motion To Withdraw As Counsel Of Record For Plaintiff On Order Shortening Time*  
 02/01/2016 **Pre Trial Conference** (8:30 AM) (Judicial Officer Hardy, Joe)  
Parties Present  
Minutes  
 Result: Matter Heard  
 02/04/2016 **Order Setting Civil Jury Trial**  
*Sixth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call*  
 02/09/2016 **Motion to Withdraw as Counsel** (3:00 AM) (Judicial Officer Hardy, Joe)  
*Paula S. Padda, Esq's Motion to Withdraw as Counsel of Record for Plaintiff on Order Shortening Time*  
Minutes  
 Result: Minute Order - No Hearing Held  
 02/16/2016 **Notice**  
*Notice Of Filing Order Granting Withdrawal Of Plaintiff's Counsel*  
 02/17/2016 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Hardy, Joe)  
*Vacated*

02/22/2016 **CANCELED Jury Trial** (10:30 AM) (Judicial Officer Hardy, Joe)  
Vacated

03/07/2016 **Motion to Dismiss**  
*Defendant, Fiesta Palms, LLC's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67*

03/07/2016 **Motion for Partial Summary Judgment**  
*Motion for Partial Summary Judgment Regarding Punitive Damages*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Testimony Regarding Witnesses Vikki Kooinga and Sheri Long*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 2 to Exclude Any Reference that any Motion in Limine has Been Filed: That the Court Has Ruled, or May Rule On any part of outside the presence of the jury; or suggesting or implying to potential jurors during voir dire or seated jurors in any manner whatsoever that Defendant moved to exclude proof in any manner or that the Court has excluded proof of any manner.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 3 Motion in Limine No. 3 to Exclude Any Monetary Damages of the Plaintiff Not Previously Disclosed or Based Upon Claims Not Previously Asserted.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 4 to Exclude Any Reference to Liability Insurance or Some Other Similar Contractor Policy Related to the Defendant.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 5 to Exclude Any Reference That The "golden rule" or That the Jury Panel or the Jury Should Do Unto Others As You have them done unto you.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 6 to Exclude All Side Bar Comments Made by Counsel During Depositions that Were Recorded on Videotape or Present in Deposition Transcripts.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 7 to Exclude Any Reference that the Attorneys for Defendant Specialize in the Handling of Insurance Cases.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. No. 8 to Exclude Any Questions that Would Invade The Attorney/Client Privilege.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No.9 to Exclude Any Statement or Implication that Defendant Sought to Delay this Trial.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 10 to Exclude Any Comments Regarding the Number of Attorneys Representing the Defendant.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 11 to Exclude Any Testimony Offered by Witnesses who Have Not Already Been Disclosed and Identified Prior to the Close of Discovery.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 12 to Preclude Any Lay Person from Rendering Opinions as to Any Medical Aspects of the Plaintiffs, Specifically Diagnoses and Claims of Diagnoses from Any Third-Parties as the Expertise Properly Lies with the Medical Provider and Beyond the Scope of a Lay Person's Experience.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 13 to Exclude Any Evidence or Claims of Mental, Psychological or Emotional Damages.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 14 to Preclude Plaintiff's Treating Physicians and Medical Expert from Testifying at Trial.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 15 to Preclude Plaintiff From Claiming Medical Specials Exceeding Amounts Disclosed by Plaintiff Pursuant to NRCP 16.1.*

03/07/2016 **Motion in Limine**  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 16 to Preclude Plaintiff from Arguing that the Violation of Defendant's Internal Policies Constitutes Negligence Per Se.*

03/08/2016 **Certificate of Mailing**  
Certificate of Mailing

03/08/2016 **Certificate of Mailing**  
Certificate of Mailing

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Testimony Regarding Witnesses Vikki Kooinga and Sheri Long*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 2 to Exclude Any Reference that any Motion in Limine has Been Filed: That the Court Has Ruled, or May Rule On any part of outside the presence of the jury; or suggesting or implying to potential jurors during voir dire or seated jurors in any manner whatsoever that Defendant moved to exclude proof in any manner or that the Court has excluded proof of any manner.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 3 Motion in Limine No. 3 to Exclude Any Monetary Damages of the Plaintiff Not Previously Disclosed or Based Upon Claims Not Previously Asserted.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 4 to Exclude Any Reference to Liability Insurance or Some Other Similar Contractor Policy Related to the Defendant.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 5 to Exclude Any Reference That The "golden rule" or That the Jury Panel or the Jury Should Do Unto Others As You have them done unto you.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 6 to Exclude All Side Bar Comments Made by Counsel During Depositions that Were Recorded on Videotape or Present in Deposition Transcripts.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
*Defendant, Fiesta Palms, LLC's Motion in Limine No. 7 to Exclude Any Reference that the Attorneys for Defendant Specialize in the Handling of Insurance Cases.*  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)

Defendant, Fiesta Palms, LLC's Motion in Limine No. No. 8 to Exclude Any Questions that Would Invade The Attorney/Client Privilege.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No.9 to Exclude Any Statement or Implication that Defendant Sought to Delay this Trial.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 10 to Exclude Any Comments Regarding the Number of Attorneys Representing the Defendant.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 11 to Exclude Any Testimony Offered by Witnesses who Have Not Already Been Disclosed and Identified Prior to the Close of Discovery.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 12 to Preclude Any Lay Person from Rendering Opinions as to Any Medical Aspects of the Plaintiffs, Specifically Diagnoses and Claims of Diagnoses from Any Third-Parties as the Expertise Properly Lies with the Medical Provider and Beyond the Scope of a Lay Person's Experience.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 13 to Exclude Any Evidence or Claims of Mental, Psychological or Emotional Damages.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 14 to Preclude Plaintiff's Treating Physicians and Medical Expert from Testifying at Trial.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 15 to Preclude Plaintiff From Claiming Medical Specials Exceeding Amounts Disclosed by Plaintiff Pursuant to NRCP 16.1.  
Result: Motion Granted

04/07/2016 **Motion in Limine** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion in Limine No. 16 to Preclude Plaintiff from Arguing that the Violation of Defendant's Internal Policies Constitutes Negligence Per Se.  
Result: Motion Granted

04/07/2016 **All Pending Motions** (9:00 AM) (Judicial Officer Hardy, Joe)  
[Parties Present](#)  
[Minutes](#)  
Result: Matter Heard

04/08/2016 **Pre-trial Memorandum**  
Defendant, Fiesta Palms, LLC.'s Individual Pre-trial Memorandum

04/11/2016 **Pre Trial Conference** (8:30 AM) (Judicial Officer Hardy, Joe)  
[Parties Present](#)  
[Minutes](#)  
Result: Matter Heard

04/14/2016 **Motion to Dismiss** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant, Fiesta Palms, LLC's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67  
Result: Motion Granted

04/14/2016 **Motion for Partial Summary Judgment** (9:00 AM) (Judicial Officer Hardy, Joe)  
Defendant's Motion for Partial Summary Judgment Regarding Punitive Damages  
Result: Denied Without Prejudice

04/14/2016 **Order Granting Motion**  
Order Granting Defendant, Fiesta Palms, LLC's Motions in Limine No. 1-16

04/14/2016 **All Pending Motions** (9:00 AM) (Judicial Officer Hardy, Joe)  
[Parties Present](#)  
[Minutes](#)  
Result: Matter Heard

04/15/2016 **Notice of Entry of Order**  
Notice of Entry of Order

04/20/2016 **Order Granting Motion**  
Order Granting Defendant, Fiesta Palms, LLC's Motion to Dismiss

04/20/2016 **Order Denying Motion**  
Order Denying Defendant, Fiesta Palms, LLC's Motion for Partial Summary Judgment on Punitive Damages as Moot

04/21/2016 **Notice of Entry of Order**  
Notice of Entry of Order

04/21/2016 **Notice of Entry of Order**  
Notice of Entry of Order

04/27/2016 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Bixler, James)  
Vacated - per Order

05/02/2016 **CANCELED Jury Trial** (10:30 AM) (Judicial Officer Hardy, Joe)  
Vacated - per Order

10/14/2016 **Substitution of Attorney**  
Plaintiff's Substitution of Attorney

10/14/2016 **Motion for Relief**  
Motion for Relief - NRCP 60

10/26/2016 **Opposition to Motion**  
Defendant, Fiesta Palms, LLC's Opposition to Plaintiff's Motion for Relief Under NRCP 60

11/10/2016 **Reply**  
Reply re: Motion for Relief

11/15/2016 **Motion for Relief** (9:00 AM) (Judicial Officer Hardy, Joe)  
Plaintiff's Motion for Relief - NRCP 60  
[Parties Present](#)  
[Minutes](#)



	Result: Motion Denied	
12/20/2016	<b>Notice of Appearance</b> Notice of Appearance	
12/23/2016	<b>Order Denying Motion</b> Order Denying Plaintiff's Motion for NRCP 60 Relief	
12/28/2016	<b>Notice of Entry of Order</b> Notice of Entry of Order	
01/05/2017	<b>Substitution of Attorney</b> Substitution of Counsel	
01/05/2017	<b>Notice of Appeal</b> Notice of Appeal	
01/05/2017	<b>Case Appeal Statement</b> Case Appeal Statement	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings Plaintiff's Motion for a Mandatory Settlement Conference; Status Check: New Trial Date 06/15/2015	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings Status Check 09/28/2015	
02/21/2017	<b>Transcript of Proceedings</b> Transcript to Proceedings Pretrial Conference 02/01/2016	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings all Pending Motions 04/07/2016	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings Pretrial Conference 04/11/2016	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings Defendant's Motion to Dismiss Pursuant to NRCP 16.1 and EDCR 2.67; Defendant's Motion for Partial Summary Judgment Regarding Punitive Damages 04/11/2016	
02/21/2017	<b>Transcript of Proceedings</b> Transcript of Proceedings Plaintiff's Motion for Relief- NRCP 60 11/15/2016	
02/24/2017	<b>Recorders Transcript of Hearing</b> Recorder's Transcript of Hearing Re: Status Check: Trial Setting 01/09/2015	
02/24/2017	<b>Recorders Transcript of Hearing</b> Recorder's Transcript of Hearing Re: Status Check: Trial Setting 02/13/2015	

---

**FINANCIAL INFORMATION**

---

	<b>Conversion Extended Connection Type</b> No Convert Value @ 06A531538			
	Total Financial Assessment			249.00
	Total Payments and Credits			249.00
	<b>Balance Due as of 03/07/2017</b>			<b>0.00</b>
11/15/2006	Transaction Assessment			249.00
11/15/2006	Conversion Payment	Receipt # 01317825	BENSON, BERTOLDO, BAKER & CART	(148.00)
12/26/2006	Conversion Payment	Receipt # 01327829	MORAN LAW FIRM LLC	(101.00)
	<b>Defendant</b> Fiesta Palms LLC			
	Total Financial Assessment			272.50
	Total Payments and Credits			272.50
	<b>Balance Due as of 03/07/2017</b>			<b>0.00</b>
11/04/2011	Transaction Assessment			24.00
11/04/2011	Wiznet	Receipt # 2011-125604-CCCLK	Fiesta Palms LLC	(24.00)
11/07/2011	Transaction Assessment			24.00
11/07/2011	Wiznet	Receipt # 2011-126032-CCCLK	Fiesta Palms LLC	(24.00)
10/30/2012	Transaction Assessment			3.50
10/30/2012	Wiznet	Receipt # 2012-134097-CCCLK	Fiesta Palms LLC	(3.50)
10/23/2014	Transaction Assessment			3.50
10/23/2014	Wiznet	Receipt # 2014-120681-CCCLK	Fiesta Palms LLC	(3.50)
10/23/2014	Transaction Assessment			3.50
10/23/2014	Wiznet	Receipt # 2014-120852-CCCLK	Fiesta Palms LLC	(3.50)
10/23/2014	Transaction Assessment			3.50
10/23/2014	Wiznet	Receipt # 2014-120916-CCCLK	Fiesta Palms LLC	(3.50)
11/20/2014	Transaction Assessment			3.50
11/20/2014	Wiznet	Receipt # 2014-131001-CCCLK	Fiesta Palms LLC	(3.50)
11/21/2014	Transaction Assessment			3.50
11/21/2014	Wiznet	Receipt # 2014-131286-CCCLK	Fiesta Palms LLC	(3.50)
12/02/2014	Transaction Assessment			3.50
12/02/2014	Wiznet	Receipt # 2014-134211-CCCLK	Fiesta Palms LLC	(3.50)
03/07/2016	Transaction Assessment			200.00
03/07/2016	Wiznet	Receipt # 2016-23261-CCCLK	Fiesta Palms LLC	(200.00)
	<b>Plaintiff</b> Rodriguez, Enrique			
	Total Financial Assessment			305.50
	Total Payments and Credits			305.50
	<b>Balance Due as of 03/07/2017</b>			<b>0.00</b>
08/28/2010	Transaction Assessment			6.00
08/28/2010	Wiznet	Receipt # 2010-42550-CCCLK	Rodriguez, Enrique	(6.00)

08/30/2010	Transaction Assessment			6.00
08/30/2010	Wiznet	Receipt # 2010-42623-CCCLK	Rodriguez, Enrique	(6.00)
09/02/2010	Transaction Assessment			6.00
09/02/2010	Wiznet	Receipt # 2010-43880-CCCLK	Rodriguez, Enrique	(6.00)
09/29/2010	Transaction Assessment			3.50
09/29/2010	Wiznet	Receipt # 2010-50046-CCCLK	Rodriguez, Enrique	(3.50)
09/30/2010	Transaction Assessment			3.50
09/30/2010	Wiznet	Receipt # 2010-50660-CCCLK	Rodriguez, Enrique	(3.50)
10/05/2010	Transaction Assessment			3.50
10/05/2010	Wiznet	Receipt # 2010-51849-CCCLK	Rodriguez, Enrique	(3.50)
10/20/2010	Transaction Assessment			3.50
10/20/2010	Wiznet	Receipt # 2010-55738-CCCLK	Rodriguez, Enrique	(3.50)
12/09/2010	Transaction Assessment			3.50
12/09/2010	Wiznet	Receipt # 2010-68744-CCCLK	Rodriguez, Enrique	(3.50)
12/09/2010	Transaction Assessment			3.50
12/09/2010	Wiznet	Receipt # 2010-68745-CCCLK	Rodriguez, Enrique	(3.50)
12/10/2010	Transaction Assessment			3.50
12/10/2010	Wiznet	Receipt # 2010-69208-CCCLK	Rodriguez, Enrique	(3.50)
12/11/2010	Transaction Assessment			3.50
12/11/2010	Wiznet	Receipt # 2010-69298-CCCLK	Rodriguez, Enrique	(3.50)
01/13/2011	Transaction Assessment			3.50
01/13/2011	Wiznet	Receipt # 2011-02897-CCCLK	Rodriguez, Enrique	(3.50)
01/14/2011	Transaction Assessment			3.50
01/14/2011	Wiznet	Receipt # 2011-03172-CCCLK	Rodriguez, Enrique	(3.50)
01/18/2011	Transaction Assessment			3.50
01/18/2011	Wiznet	Receipt # 2011-03506-CCCLK	Rodriguez, Enrique	(3.50)
01/20/2011	Transaction Assessment			3.50
01/20/2011	Wiznet	Receipt # 2011-04336-CCCLK	Rodriguez, Enrique	(3.50)
03/12/2011	Transaction Assessment			3.50
03/12/2011	Wiznet	Receipt # 2011-23566-CCCLK	Rodriguez, Enrique	(3.50)
03/12/2011	Transaction Assessment			3.50
03/12/2011	Wiznet	Receipt # 2011-23568-CCCLK	Rodriguez, Enrique	(3.50)
03/12/2011	Transaction Assessment			3.50
03/12/2011	Wiznet	Receipt # 2011-23572-CCCLK	Rodriguez, Enrique	(3.50)
03/12/2011	Transaction Assessment			3.50
03/12/2011	Wiznet	Receipt # 2011-23574-CCCLK	Rodriguez, Enrique	(3.50)
03/14/2011	Transaction Assessment			3.50
03/14/2011	Wiznet	Receipt # 2011-24627-CCCLK	Rodriguez, Enrique	(3.50)
03/14/2011	Transaction Assessment			3.50
03/14/2011	Wiznet	Receipt # 2011-24629-CCCLK	Rodriguez, Enrique	(3.50)
03/14/2011	Transaction Assessment			3.50
03/14/2011	Wiznet	Receipt # 2011-24631-CCCLK	Rodriguez, Enrique	(3.50)
03/14/2011	Transaction Assessment			3.50
03/14/2011	Wiznet	Receipt # 2011-24646-CCCLK	Rodriguez, Enrique	(3.50)
03/16/2011	Transaction Assessment			3.50
03/16/2011	Wiznet	Receipt # 2011-25115-CCCLK	Rodriguez, Enrique	(3.50)
03/16/2011	Transaction Assessment			3.50
03/16/2011	Wiznet	Receipt # 2011-25216-CCCLK	Rodriguez, Enrique	(3.50)
03/21/2011	Transaction Assessment			3.50
03/21/2011	Wiznet	Receipt # 2011-26999-CCCLK	Rodriguez, Enrique	(3.50)
03/23/2011	Transaction Assessment			3.50
03/23/2011	Wiznet	Receipt # 2011-28396-CCCLK	Rodriguez, Enrique	(3.50)
04/06/2011	Transaction Assessment			3.50
04/06/2011	Wiznet	Receipt # 2011-33688-CCCLK	Rodriguez, Enrique	(3.50)
04/06/2011	Transaction Assessment			3.50
04/06/2011	Wiznet	Receipt # 2011-33691-CCCLK	Rodriguez, Enrique	(3.50)
04/07/2011	Transaction Assessment			3.50
04/07/2011	Wiznet	Receipt # 2011-34766-CCCLK	Rodriguez, Enrique	(3.50)
04/15/2011	Transaction Assessment			3.50
04/15/2011	Wiznet	Receipt # 2011-37777-CCCLK	Rodriguez, Enrique	(3.50)
04/16/2011	Transaction Assessment			3.50
04/16/2011	Wiznet	Receipt # 2011-38604-CCCLK	Rodriguez, Enrique	(3.50)
04/22/2011	Transaction Assessment			3.50
04/22/2011	Wiznet	Receipt # 2011-41042-CCCLK	Rodriguez, Enrique	(3.50)
04/22/2011	Transaction Assessment			3.50
04/22/2011	Wiznet	Receipt # 2011-41324-CCCLK	Rodriguez, Enrique	(3.50)
04/27/2011	Transaction Assessment			3.50
04/27/2011	Wiznet	Receipt # 2011-42723-CCCLK	Rodriguez, Enrique	(3.50)
05/03/2011	Transaction Assessment			10.00
05/03/2011	Payment (Window)	Receipt # 2011-17591-FAM	Benson Bertoldo Baker & Carter	(10.00)
05/03/2011	Transaction Assessment			10.00
05/03/2011	Payment (Window)	Receipt # 2011-17593-FAM	Benson Bertoldo Baker & Carter	(10.00)
05/03/2011	Transaction Assessment			10.00
05/03/2011	Payment (Window)	Receipt # 2011-17596-FAM	Benson Bertoldo Baker & Carter	(10.00)
05/03/2011	Transaction Assessment			10.00
05/03/2011	Payment (Window)	Receipt # 2011-17601-FAM	Benson Bertoldo Baker & Carter	(10.00)
05/12/2011	Transaction Assessment			3.50
05/12/2011	Wiznet	Receipt # 2011-49343-CCCLK	Rodriguez, Enrique	(3.50)
05/13/2011	Transaction Assessment			3.50
05/13/2011	Wiznet	Receipt # 2011-50025-CCCLK	Rodriguez, Enrique	(3.50)
08/18/2011	Transaction Assessment			3.50
08/18/2011	Wiznet	Receipt # 2011-91882-CCCLK	Rodriguez, Enrique	(3.50)
08/19/2011	Transaction Assessment			3.50
08/19/2011	Wiznet	Receipt # 2011-92135-CCCLK	Rodriguez, Enrique	(3.50)

08/30/2011	Transaction Assessment			3.50
08/30/2011	Wiznet	Receipt # 2011-96239-CCCLK	Rodriguez, Enrique	(3.50)
09/02/2011	Transaction Assessment			3.50
09/02/2011	Wiznet	Receipt # 2011-98648-CCCLK	Rodriguez, Enrique	(3.50)
09/30/2011	Transaction Assessment			3.50
09/30/2011	Wiznet	Receipt # 2011-110230-CCCLK	Rodriguez, Enrique	(3.50)
10/04/2011	Transaction Assessment			3.50
10/04/2011	Wiznet	Receipt # 2011-112022-CCCLK	Rodriguez, Enrique	(3.50)
10/05/2011	Transaction Assessment			3.50
10/05/2011	Wiznet	Receipt # 2011-112695-CCCLK	Rodriguez, Enrique	(3.50)
10/18/2011	Transaction Assessment			3.50
10/18/2011	Wiznet	Receipt # 2011-118284-CCCLK	Rodriguez, Enrique	(3.50)
10/26/2011	Transaction Assessment			3.50
10/26/2011	Wiznet	Receipt # 2011-121410-CCCLK	Rodriguez, Enrique	(3.50)
11/04/2011	Transaction Assessment			3.50
11/04/2011	Wiznet	Receipt # 2011-125477-CCCLK	Rodriguez, Enrique	(3.50)
11/08/2011	Transaction Assessment			3.50
11/08/2011	Wiznet	Receipt # 2011-127334-CCCLK	Rodriguez, Enrique	(3.50)
11/09/2011	Transaction Assessment			3.50
11/09/2011	Wiznet	Receipt # 2011-127768-CCCLK	Rodriguez, Enrique	(3.50)
11/14/2011	Transaction Assessment			10.00
11/14/2011	Payment (Window)	Receipt # 2011-128911-CCCLK	STEVEN KAISER	(10.00)
11/17/2011	Transaction Assessment			3.50
11/17/2011	Wiznet	Receipt # 2011-130817-CCCLK	Rodriguez, Enrique	(3.50)
11/17/2011	Transaction Assessment			3.50
11/17/2011	Wiznet	Receipt # 2011-131045-CCCLK	Rodriguez, Enrique	(3.50)
11/17/2011	Transaction Assessment			3.50
11/17/2011	Wiznet	Receipt # 2011-131092-CCCLK	Rodriguez, Enrique	(3.50)
11/17/2011	Transaction Assessment			3.50
11/17/2011	Wiznet	Receipt # 2011-131098-CCCLK	Rodriguez, Enrique	(3.50)
02/15/2012	Transaction Assessment			3.50
02/15/2012	Wiznet	Receipt # 2012-21620-CCCLK	Rodriguez, Enrique	(3.50)
03/09/2012	Transaction Assessment			3.50
03/09/2012	Wiznet	Receipt # 2012-31785-CCCLK	Rodriguez, Enrique	(3.50)
11/03/2014	Transaction Assessment			3.50
11/03/2014	Wiznet	Receipt # 2014-124318-CCCLK	Rodriguez, Enrique	(3.50)
11/24/2014	Transaction Assessment			3.50
11/24/2014	Wiznet	Receipt # 2014-132101-CCCLK	Rodriguez, Enrique	(3.50)
11/24/2014	Transaction Assessment			3.50
11/24/2014	Wiznet	Receipt # 2014-132192-CCCLK	Rodriguez, Enrique	(3.50)
12/09/2014	Transaction Assessment			3.50
12/09/2014	Wiznet	Receipt # 2014-137219-CCCLK	Rodriguez, Enrique	(3.50)
12/09/2014	Transaction Assessment			3.50
12/09/2014	Wiznet	Receipt # 2014-137248-CCCLK	Rodriguez, Enrique	(3.50)
12/20/2016	Transaction Assessment			3.50
12/20/2016	Wiznet	Receipt # 2016-122879-CCCLK	Rodriguez, Enrique	(3.50)
01/05/2017	Transaction Assessment			3.50
01/05/2017	Wiznet	Receipt # 2017-01127-CCCLK	Rodriguez, Enrique	(3.50)
01/05/2017	Transaction Assessment			27.50
01/05/2017	Wiznet	Receipt # 2017-01358-CCCLK	Rodriguez, Enrique	(24.00)
01/05/2017	Wiznet	Receipt # 2017-01359-CCCLK	Rodriguez, Enrique	(3.50)
01/06/2017	Transaction Assessment			3.50
01/06/2017	Wiznet	Receipt # 2017-01434-CCCLK	Rodriguez, Enrique	(3.50)