

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRISTINA PAULOS,

Appellant,

vs.

FCH1, LLC, A NEVADA LIMITED LIABILITY COMPANY; LAS VEGAS METROPOLITAN POLICE DEPARTMENT, A GOVERNMENT ENTITY; JEANNIE HOUSTON; AN INDIVIDUAL; AND AARON BACA, AN INDIVIDUAL,

Respondents.

Case No.: 74912 Electronically Filed
Mar 26 2019 09:50 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial District Court, the Honorable Rob Bare Presiding.

RENEWED MOTION TO TRANSMIT VIDEO EXHIBITS, OR, IN THE ALTERNATIVE, REQUEST FOR LEAVE TO SETTLE THE RECORD

Marquis Aurbach Coffing

Craig R. Anderson, Esq.

Nevada Bar No. 6882

Kathleen A. Wilde, Esq.

Nevada Bar No. 12522

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

canderson@maclaw.com

kwilde@maclaw.com

Attorneys for Las Vegas Metropolitan

Police Department and Aaron Baca

MAC:05166-622 3690142_1

RENEWED MOTION TO TRANSMIT VIDEO EXHIBITS, OR, IN THE ALTERNATIVE, REQUEST FOR LEAVE TO SETTLE THE RECORD.

Respondents, the Las Vegas Metropolitan Police Department and Officer Aaron Baca (cumulatively the “LVMPD Respondents”), by and through their attorneys of record, the law firm of Marquis Aurbach Coffing, hereby renew and clarify their previous motion for an order to transmit video disks in accordance with Nevada Rule of Appellate Procedure (“NRAP”) 30(d) and move, in the alternative, for leave to settle the record in the District Court.

On January 10, 2019, the LVMPD Respondents moved this Court to direct the Clerk for the Eighth Judicial District Court to transmit surveillance videos from the day in question, August 7, 2011. In their motion, the LVMPD Respondents specified that the videos were before the District Court as Exhibit 6 to their January 6, 2016, Motion for Summary Judgment as well as Exhibit B to their May 19, 2015, Motion to Dismiss or, Alternatively, Motion for Summary Judgment.

On January 29, 2019, this Court granted the motion. In the month that followed, the Clerk of the Eighth Judicial District Court provided two updates indicating that neither exhibit was within the District Court’s evidence vault. This Court then issued an order authorizing a renewed motion “that adequately describes the exhibit to be transmitted.” *See Christina Paulos v. FCHI, LLC, et al.*, Case No. 74912 (Order dated March 12, 2019).

It is unclear why the previously identified exhibits were not retained in the District Court's vault. But, after reviewing the record and duplicate disks contained in counsels' office, the LVMPD Respondents wish to clarify that the surveillance video was labeled in black marker as "Paulos v. LVMPD; Palms Surveillance Video 8-7-11." See 3 Appellant's Appendix ("AA") 701, attached hereto as **Exhibit A**.¹ So, the Clerk should search for and transmit any disk matching that description.

Alternatively, in the event the disk has been lost, misplaced, or otherwise is unavailable, the LVMPD Respondents respectfully request leave to settle the record pursuant to NRAP 10. Because Ms. Paulos has already filed her reply brief, it is unlikely that NRAP 10(c) proceedings in the District Court will delay resolution of this appellate matter. Nevertheless, any interruption is warranted because of the importance of the video footage. After all, the exact timeline of events was a critical factor in the Federal District Court's decision, as well as the Findings of Fact and Conclusions of Law which are the subject of this appeal. See, e.g., 4 AA 791-808, 7 AA 1676.

¹ A cleaner copy of the video exhibit in question is also attached for improved visibility.

For the foregoing reasons, the LVMPD Respondents respectfully request that this Court order transmission of the video disk labeled as “Palms Surveillance Video 8-7-11” from the Eighth Judicial District Court. Alternatively, if the surveillance footage was not maintained in the District Court’s evidence vault, the LVMPD Respondents request leave to settle the record in accordance with NRAP 10.

Dated this 26th day of March, 2019.

MARQUIS AURBACH COFFING

By: Kathleen Wilde

Craig R. Anderson, Esq.
Nevada Bar No. 6882
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
*Attorneys for Las Vegas Metropolitan
Police Department and Aaron Baca*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RENEWED MOTION TO TRANSMIT VIDEO EXHIBITS, OR, IN THE ALTERNATIVE, REQUEST FOR LEAVE TO SETTLE THE RECORD** was filed electronically with the Nevada Supreme Court on the 26th day of March, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Elliot S. Blut
Daniel F. Polsenberg
Abraham G. Smith
Attorneys for Appellant Cristina Paulos

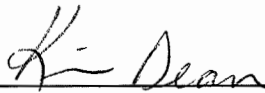
Justin W. Smerber
Attorneys for FCH1, LLC and Jeannie Houston

Barbara E. Buckley
Legal Aid Center of Southern Nevada

Professor Anne R. Traum and Kelly Dove
Co-chairs of Appellate Litigation Section
Pro Bono Committee for the State Bar of Nevada

I further certify that I mailed a copy of this document with a copy of the video disk, postage prepaid, addressed as follows:

N/A

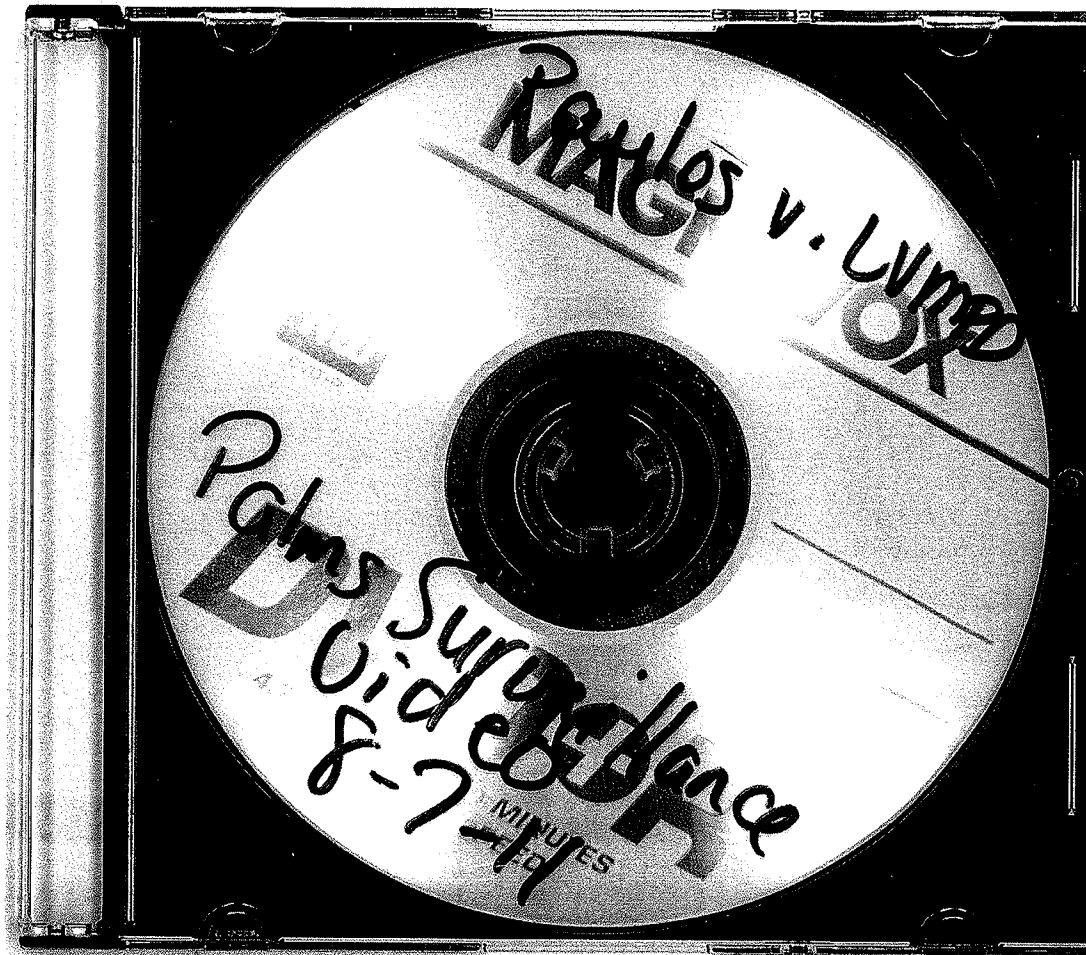


Kim Dean, an employee of
Marquis Aurbach Coffing

EXHIBIT A

**Photocopy of Palms Surveillance Video Disk
(3 Appellant's Appendix 701)**





PRAXIS v. LVMED

Palms Surveillance
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