

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

CHARLES SCHUELER,  
Appellant,

vs.

AD ART, INC., A FOREIGN CORPORATION,  
Respondent.

No. 75688

Electronically Filed  
May 24 2018 08:56 a.m.

DOCKETING STATEMENT  
CIVIL APPEALS  
Elizabeth A. Brown  
Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

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

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

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

Client(s) Charles Schueler

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

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

Attorney Timothy F. Hunter Telephone (702) 479-4350  
Firm RAY LEGO & ASSOCIATES  
Address 7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, NV 89113

Client(s) AD ART, INC., A Foreign Corporation

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

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

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

Charles Schueler vs. MGM Grand Hotel, LLC, Docket Number: 71882

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

None.

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

On July 31, 2013, Charles Schueler and his co-workers were replacing the LED display on MGM Grand's marquee pylon sign. As Mr. Schueler was walking on the floor of the sign, a triangular panel broke loose, causing him to fall over 100 feet to the ground and suffer serious injuries. Mr. Schueler subsequently sued MGM Grand for premises liability, Ad Art, Inc. for defective product liability and 3A Composites USA, Inc. for defective product liability. Ad Art, Inc. filed a Motion for Summary Judgment claiming the MGM pylon at issue was not a product and therefore could not be liable under strict products liability. Although Ad Art, Inc.'s Motion was initially denied, it was granted after Ad Art, Inc. filed a Motion for Reconsideration without citing any new information or case law.

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

1. Did the Court err when it granted Ad Art, Inc.'s Motion for Reconsideration, even though Ad Art, Inc.'s Motion for Reconsideration did not contain any new or additional information that was not available at the time it filed its original motion?
2. Did the Court err when it found the MGM Pylon sign at issue was a not a product for purposes of strict products liability, thus depriving Mr. Schueler of the ability to sue Ad Art, Inc. for his injuries?

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

None.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

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

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

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

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
None.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** March 23, 2018

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

**17. Date written notice of entry of judgment or order was served** March 23, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

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

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

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

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

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

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

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** April 20, 2018

---

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

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

NRAP 4(a)

---

**SUBSTANTIVE APPEALABILITY**

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

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

---

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
NRAP 3A(b)(1) grants this Court jurisdiction to review final judgments.

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

**(a) Parties:**

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

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

MGM Grand Hotel, LLC - Formally Dismissed and on appeal (Case No. 71882)  
3A Composites USA Inc. - Formally Dismissed

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

Schueler v. MGM Grand - premises liability - dismissed on the pleadings  
Schueler v. Ad Art, Inc. - premises liability, product liability - summary judgment  
Schueler v. 3A Composites USA, Inc. - product liability - summary judgment

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

☒ Yes

☐ No

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

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

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

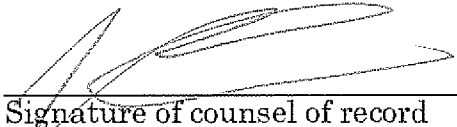
## VERIFICATION

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

Charles Schueler  
Name of appellant

Ryan Krametbauer  
Name of counsel of record

5.23.18  
Date

  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 23<sup>rd</sup> day of May, 2018, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Timothy F. Hunter  
Ray Lego & Associates  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, NV 89113

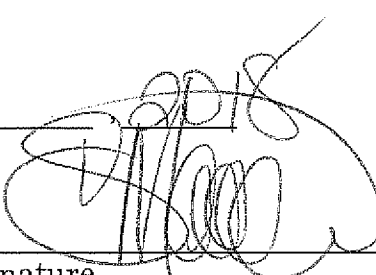
Dated this

23<sup>rd</sup>

day of

May

2018

  
Signature

## DISTRICT COURT CIVIL COVER SHEET

XVII

Clark

County, Nevada

Case No.

(Assigned by Clerk's Office)

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

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

Charles Schaefer

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

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

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

SA COMPOSITES USA INC., and BRACORNO TECHNIQUES CORPORATION

Attorney (name/address/phone):

WILLIAM R. BRENSKE, ESQ.

Attorney (name/address/phone):

UNKNOWN

630 South 3rd Street

Las Vegas, NV 89101

## II. Nature of Controversy (please select the one most applicable filing type below)

## Civil Case Filing Types

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

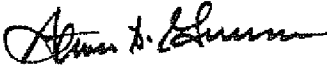
Business Court filings should be filed using the Business Court civil coversheet.

July 30th, 2015

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

270.00 7517  
CHECK  
CLERK JANEL WASHINGTON

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

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **CHARLES SCHUELER,**

16 Plaintiff,

17 v.

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

28 Defendants.

Case No.: A-15-722391-C

Dept. No.: XVII

**COMPLAINT**

Date of Hearing: N/A

Time of Hearing: N/A

**JURISDICTIONAL ALLEGATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

### GENERAL ALLEGATIONS

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

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

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

### FIRST CAUSE OF ACTION

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

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

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

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

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

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

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

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

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



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

3 31. As a further direct and proximate cause of Defendant AD ART, DOES 1-25 and/or  
4 ROE CORPORATIONS 1-25 defective manufacture and/or design of the MGM pylon sign,  
5 Plaintiff endured, and continues to endure pain, suffering, disability, and mental anguish in an  
6 amount in excess of Ten Thousand Dollars (\$10,000.00).  
7

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

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

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

16 34. Defendant 3A COMPOSITES USA INC., DOES 1 - 25 and/or ROE  
17 CORPORATIONS 1 - 25 designed, manufactured, assembled, sold, and/or distributed the material  
18 known commonly as "Alucobond" which was used to manufacture and/or construct the MGM  
19 pylon sign in question.  
20

21 35. By reason of a defect in its design, manufacture, and/or assembly, the Alucobond  
22 material inside and surrounding the MGM pylon sign was defective, unfit, and/or unreasonably  
23 dangerous for its intended use at the time Plaintiff CHARLES SCHULER was working on July 31,  
24 2013 and at the time it left the control of Defendant 3A COMPOSITES USA INC., DOES 1-25  
25 and/or ROE CORPORATIONS 1-25.  
26

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

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

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

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

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

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

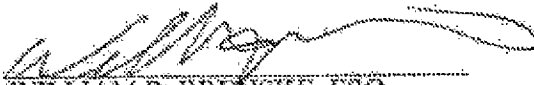
20 WHEREFORE Plaintiffs pray for Judgment for their First, Second, and Third Causes of  
21 Action as follows:

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

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

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

2 DATED this 24 day of July, 2015.

3  
4   
WILLIAM R. BRENSKE, ESQ.

Nevada Bar No. 1806

RYAN D. KRAMETBAUER, ESQ.

Nevada Bar No. 12800

LAW OFFICE OF WILLIAM R. BRENSKE

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Attorneys for Plaintiff Charles Schueler

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IAFD  
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*Attorney for Plaintiff*

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHARLES SCHUELER,

Plaintiff,

v.

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

Defendants.

Case No.:  
Dept. No.:

INITIAL APPEARANCE FEE  
DISCLOSURE

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

Plaintiff Charles Schueler:

\$ 270.00

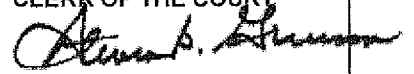
**TOTAL REMITTED:**

\$ 270.00

DATED this 20<sup>th</sup> day of July 2015.

LAW OFFICE OF WILLIAM R. BRENSKE

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



1 **NEO**  
TIMOTHY F. HUNTER, ESQ.  
2 Nevada Bar No. 010622  
RAY LEGO & ASSOCIATES  
3 7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, NV 89113  
4 Tel: (702) 479-4350  
Fax: (702) 270-4602  
5 [tfhunter@travelers.com](mailto:tfhunter@travelers.com)

6 Attorney for Defendant,  
AD ART, INC.

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

9 CHARLES SCHUELER,

CASE NO.: A-15-722391-C

10 Plaintiff,

DEPT. NO.: XVII

11 vs.

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

18 Defendants.

19 **NOTICE OF ENTRY OF ORDER GRANTING AD ART, INC.'S MOTION FOR**  
20 **RECONSIDERATION ON MOTION FOR SUMMARY JUDGMENT**

21 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

22 PLEASE TAKE NOTICE that an Order in the above-captioned matter was entered on

23 ///

24 ///

25 ///

26 ///

27 ///

28

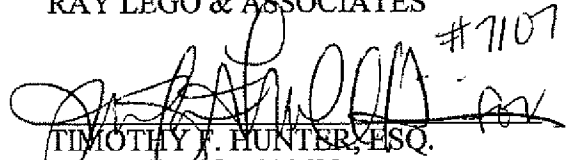
Ray Lego & Associates  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, Nevada 89113  
Telephone No. (702) 479-4350  
Facsimile No. (702) 270-4602

the 23rd day of March, 2018. A copy of said Order is attached hereto.

DATED this 23rd day of March, 2018.

Respectfully submitted,

RAY LEGO & ASSOCIATES

 #7107  
TIMOTHY F. HUNTER, ESQ.  
Nevada Bar No. 010622  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, NV 89113

Attorney for Defendant, AD ART, INC.

Ray Lego & Associates  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, Nevada 89113  
Telephone No. (702) 479-4350  
Facsimile No. (702) 270-4602

**CERTIFICATE OF SERVICE**


Pursuant to NRCP 5(b), I hereby certify that I am an employee of RAY LEGO & ASSOCIATES and that on the 23<sup>RD</sup> day of March, 2018 I caused the foregoing **NOTICE OF ENTRY OF ORDER GRANTING AD ART, INC.'S MOTION FOR RECONSIDERATION ON MOTION FOR SUMMARY JUDGMENT** to be served as follows:

  X   pursuant to N.E.F.C.R. 9 by serving it via electronic service.

To the attorneys listed below:

William R. Brenske, #001806  
BRENSKE & ANDREEVSKI  
3800 Howard Hughes Parkway, #500  
Las Vegas, NV 89169  
[wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)

P: 702/385-3300  
F: 702/385-3823  
Attorneys for Plaintiff, **CHARLES SCHUELER**

  
An employee of RAY LEGO & ASSOCIATES

ORIGINAL

Electronically Filed  
3/23/2018 10:41 AM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

ORD  
TIMOTHY F. HUNTER, ESQ.  
Nevada Bar No. 010622  
RAY LEGO & ASSOCIATES  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, NV 89113  
Tel: (702) 479-4350  
Fax: (702) 270-4602  
tfhunter@travelers.com

Attorney for Defendant,  
AD ART, INC.

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHARLES SCHUELER,

CASE NO.: A-15-722391-C

Plaintiff,

DEPT. NO.: XVII

vs.

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

Defendants.

**ORDER GRANTING AD ART, INC.'S MOTION FOR RECONSIDERATION ON  
MOTION FOR SUMMARY JUDGMENT**

On December 21, 2017, Defendant, Ad Art, Inc. ("Ad Art"), filed its Motion for Reconsideration on Motion for Summary Judgment. On January 10, 2018, Plaintiff filed his Opposition. On January 17, 2018 Ad Art filed its Reply in Support of Motion for Reconsideration.

In lieu of oral arguments, this Honorable Court, Judge Michael Villani presiding, set the motion for resolution on its Chambers Calendar. After considering the moving, opposing, and reply briefs, and the case authority cited therein and finding good cause, the Court issued a

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Las Vegas, Nevada 89113  
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Facsimile No. (702) 270-4602

RECEIVED BY  
DEPT 17 ON  
MAR 15 2018

1 minute order on March 1, 2018 with its ruling on the pending motion for reconsideration, and  
2 now hereby submits its Findings of Facts, Conclusions of Law, and Order.

3 **I. FINDINGS OF FACT**

4 1. The MGM Pylon is a sign located in front of MGM Grand Las Vegas at 3799 S.  
5 Las Vegas Boulevard, Las Vegas, Nevada 89101. The MGM Pylon was originally constructed  
6 in approximately 1993 or 1994 and stands well over 150 feet tall.

7  
8 2. The MGM Pylon is one of a kind object that was not mass produced. The MGM  
9 Pylon was designed under the direct supervision of MGM, who was involved in every aspect of  
10 the design. The MGM Pylon had many different companies involved in its production,  
11 including those involved in the foundation, supply of materials, as well as others. The MGM  
12 Pylon was built for the sole use of MGM, and was not intended to be placed in the stream of  
13 commerce.

14  
15 3. On July 31, 2013, Plaintiff, Charles Schueler, was an employee of Young  
16 Electric Sign Co. When attempting to perform his repair work on the MGM Pylon, Plaintiff lost  
17 his balance and fell approximately 150 feet to the ground below. As a result of the fall, Plaintiff  
18 sustained injuries.

19  
20 4. Plaintiff alleges, generally, that Ad Art was responsible for the fall under a  
21 theory of Premises Liability and Strict Products Liability only. Plaintiff's Premises Liability  
22 Claims were dismissed against Ad Art pursuant to the Court's October 20, 2017 order.

23 **II. CONCLUSIONS OF LAW**

24 1. Under EDCR 2.24, "a district court may reconsider a previously decided issue if  
25 substantially different evidence is introduced or the decision is clearly erroneous." *Masonry &*  
26 *Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 7373, 741, 941 P.2d 486, 489 (1997). A  
27 court has the inherent authority to reconsider its prior orders. *Trail v. Faretto*, 91 Nev. 401, 536  
28

1 P.2d 1026 (1975). Moreover, under NRCP 54(b), "the district court may at any time before the  
2 entry of a final judgment, revise orders..." *Barry v. Lindner*, 119 Nev. 661, 670, 81 P.3d 537,  
3 543 (2003).

4       2.       The question of whether the MGM Pylon is a product for the purposes of a Strict  
5 Products Liability analysis centers around the Nevada Supreme Court decision in *Calloway v.*  
6 *City of Reno*, 116 Nev. 250, 992 P.2d 1259 (2000). In *Calloway*, it was alleged that the  
7 construction of townhomes included defective framing. The Court held that townhomes "were  
8 not products for purposes of strict products liability." *Id.* at 268. The Court acknowledged that  
9 some jurisdictions have found that a building can constitute a product under strict product  
10 liability while other have found the opposite. Previously, the court found that a leaky gas line  
11 fitting in a residence fell under the doctrine of strict products liability. *See, Worrell v. Barnes*,  
12 87 Nev. 204, 484 P.2d 573 (1971). The *Calloway* court specifically overruled the *Worrell* court  
13 with respect to its application of strict products liability. *Id.* at 271.

14       3.       In *Martens v. MCL Construction Corp.*, 347 Ill. App. 3d 303, 807 N.E. 2d 480  
15 (2004), the Illinois Court of Appeals dealt with a case similar to the matter at hand. In *Marten*,  
16 the Illinois court dealt with a claim involving a fall from a steel beam at a construction site. In  
17 affirming the Circuit court's granting of summary judgment, the Court of Appeals held that a  
18 "buildings and indivisible component parts of the building structure itself, such as bricks,  
19 supporting beams and railings, are not deemed products for purposes of strict liability in tort."  
20 *Id.* at 320.

21       4.       Here, the MGM Pylon is one of a kind object and not mass produced. Under  
22 such circumstances the MGM Pylon is not a product for strict liability purposes. *See, Dayberry*  
23 *v. City of E. Helena*, 318 Mont. 301, 80 P.3d 1218 (2003).

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25  
26  
27  
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///

Ray Lego & Associates  
7450 Arroyo Crossing Parkway, Suite 250  
Las Vegas, Nevada 89113  
Telephone No. (702) 479-4350  
Facsimile No. (702) 270-4602

1 **III. ORDER**

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


- 3 1. The MGM Pylon is not a product for strict products liability purposes.  
4 2. Ad Art, Inc.'s Motion for Reconsideration is GRANTED.  
5 3. Ad Art, Inc.'s Motion for Summary Judgment is GRANTED in its entirety.  
6 4. Having found that the MGM sign is not a product for strict liability purposes, and  
7 GRANTING Ad Art, Inc.'s Motion for Summary Judgment it need not address  
8 the successor liability issue.  
9

10 DATED this 21 day of March, 2018.

11 

12 DISTRICT COURT JUDGE *fg*

13 Respectfully submitted,  
14

15 RAY LEGO & ASSOCIATES  
16 

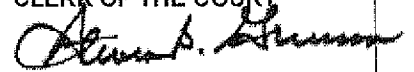
17  
18 TIMOTHY F. HUNTER, ESQ.  
19 Nevada Bar No. 010622  
20 7450 Arroyo Crossing Parkway, Suite 250  
21 Las Vegas, NV 89113  
22 Attorney for Defendant, AD ART, INC.

23 Approved as to form and content:

24 BRENSKE & ANDREEVSKI

25 *RECEIVED SIGN*

26 WILLIAM R. BRENSKE, ESQ., #1806  
27 RYAN D. KRAMETBAUER, ESQ., #12800  
28 3800 Howard Hughes Parkway, Suite 500  
Las Vegas, NV 89169  
Attorneys for Plaintiff, CHARLES SCHUELER



1 WILLIAM R. BRENSKE, ESQ.  
Nevada Bar No. 1806  
2 RYAN D. KRAMETBAUER, ESQ.  
Nevada Bar No. 12800  
3 BRENSKE & ANDREEVSKI  
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5 Facsimile: (702) 385-3823  
Email: [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)  
6 *Attorneys for Plaintiff*

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

9 CHARLES SCHUELER,

Case No.: A-15-722391-C  
Dept. No.: XVII

10 Plaintiff,

11 v.

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

**NOTICE OF ENTRY OF ORDER  
RE DEFENDANT AD ART, INC.'S  
MOTION FOR SUMMARY  
JUDGMENT**

16 Defendants.  
17

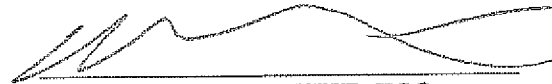
18 YOU WILL PLEASE TAKE NOTICE that an Order was entered on the 23<sup>rd</sup> day of October

19 2017.

20 A true and correct copy of the Order is attached hereto.

21 DATED this 24<sup>th</sup> day of October 2017.

22 **BRENSKE & ANDREEVSKI**



23 WILLIAM R. BRENSKE, ESQ.  
Nevada Bar No. 1806  
24 RYAN D. KRAMETBAUER, ESQ.  
Nevada Bar No. 12800  
25 3800 Howard Hughes Parkway, Suite 500  
26 Las Vegas, Nevada 89169  
27 *Attorneys for Plaintiff*  
28

Brenske & Andreevski  
3800 Howard Hughes Parkway, Suite 500  
Las Vegas, Nevada 89169  
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**CERTIFICATE OF SERVICE**

I am employed with the law office of Brenske & Andreevski. I am over the age of 18 and not a party to the within action; my business address is 3800 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under its practice mail is to be deposited with the U. S. Postal Service on that same day as stated below, with postage thereon fully prepaid.

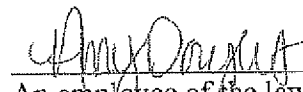
I served the foregoing document described as "NOTICE OF ENTRY OF ORDER RE DEFENDANT AD ART, INC.'S MOTION FOR SUMMARY JUDGMENT" on this 27<sup>th</sup> day of October 2017, to all interested parties as follows:

- ☐ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows:
- ☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below:
- ☒ BY ELECTRONIC SERVICE: by electronically filing and serving the foregoing document with the Eighth Judicial District Court's WizNet system:

Timothy F. Hunter  
RAY LEGO & ASSOCIATES  
7450 Arroya Crossing Party, Suite 250  
Las Vegas, Nevada 89113  
*Attorney For Defendant,*  
*Ad Art, Inc.*  
**Facsimile No.: 702-270-4602**

LeAnn Sanders  
Edward Silverman  
ALVERSON, TAYLOR,  
MORTENSEN & SANDERS  
7401 West Charleston Blvd.  
Las Vegas, Nevada 89117  
*Attorneys for Defendant,*  
*3A Composites USA Inc., a/k/a*  
*Alucobond Technologies Corporation*  
**Facsimile No.: 702-385-7000**

Riley A. Clayton  
HALL JAFFE & CLAYTON, LLP  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant,*  
*MGM Grand Hotel, LLC,*  
*d/b/a MGM Grand*  
**Facsimile No.: 702-316-4114**



An employee of the law office of  
Brenske & Andreevski

*Steven D. Grierson*

1 WILLIAM R. BRENSKE, ESQ.  
Nevada Bar No. 1806  
2 RYAN D. KRAMETBAUER, ESQ.  
Nevada Bar No. 12800  
3 BRENSKE & ANDREEVSKI  
3800 Howard Hughes Parkway, Suite 500  
4 Las Vegas, NV 89169  
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5 Facsimile: (702) 385-3823  
6 Email: [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)  
Attorneys for Plaintiff,  
7 Charles Schueler

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 CHARLES SCHUELER,

11 Plaintiff,

12 v.

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

18 Defendants.

Case No.: A-15-722391-C

Dept. No.: XVII

ORDER RE: DEFENDANT AD  
ART, INC.'S MOTION FOR  
SUMMARY JUDGMENT

19 On September 6, 2017, Defendant Ad Art, Inc.'s Motion for Summary Judgment  
20 in the above-captioned matter came before this Court. Timothy Hunter, Esq. of Ray Lego &  
21 Associates appeared on behalf of Ad Art, Inc. Ryan D. Krametbauer, Esq. of Brenske &  
22 Andreevski appeared on behalf of Plaintiff, Charles Schueler.

24 Defendant Ad Art, Inc. sought summary judgment based on claims that 1) "Old" Ad Art,  
25 Inc. completed the work on the MGM pylon sign at issue; 2) the current Ad Art, Inc. was not in  
26 existence at the time of the MGM pylon's construction; 3) Ad Art, Inc. is not a successor  
27 corporation of "old" Ad Art, Inc.; 4) the MGM pylon sign at issue was not a product to which  
28

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DEPT 17 ON  
OCT 20 2017

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

1 products liability can apply; 5) the Statute of Repose applies; and 6) Plaintiff's premises liability  
2 claim fails because Ad Art, Inc. was not the owner, occupier, designer, manufacturer, constructor,  
3 or maintainer of the MGM pylon sign. This Court having reviewed the parties' pleadings, files  
4 and oral argument **DOES NOW FIND AND ORDER AS FOLLOWS:**

5  
6 **I. FINDINGS OF FACT**

7 A. The Clark County Building Department Permit dated October 5, 1993 (provided on  
8 page 4 of Plaintiff's Opposition) lists Ad Art, Inc. as the contractor.

9 B. Ad Art, Inc. is a manufacturer of signs and engaged in the business of selling such  
10 products.

11 **II. CONCLUSIONS OF LAW**

12 Summary Judgment is appropriate when the pleadings and other evidence on file  
13 demonstrate "no genuine issue as to any material fact [remains] and the moving party is entitled to  
14 judgment as a matter of law." See NRCP 56(c); Wood v. Safeway, Inc., 121 Nev. 724, 731, 121  
15 P.3d 1026, 1031 (2005). In ruling upon a motion for summary judgment, the Court must view all  
16 evidence and inferences in the light most favorable to the non-moving party. See Torrealba v.  
17 Kesmetis, 124 Nev. 95, 178 P.3d 716 (2008). To rebut a motion for summary judgment, the  
18 nonmoving party must present some specific facts to demonstrate that a genuine issue of material  
19 fact exists. Forouzan, Inc. v. Bank of George, 128 Nev. 896, 381 P.3d 612 (2012).  
20

21  
22 A. "Old" Ad Art, Inc. v. Current Ad Art, Inc.

23 This Court finds ownership of Ad Art, Inc. to be a question of fact for the jury to  
24 determine. The Clark County Building Department permit dated October 5, 1993 (provided on  
25 page 4 of Plaintiff's Opposition) lists Ad Art, Inc. as the contractor. Although this runs counter to  
26 the statements made by Terry Long, the sale agreement between NASCO and Ad Art, Inc., and  
27 printout from the Nevada Secretary of State's website, it creates a question of fact as to which Ad  
28

1 Art was involved in the design, manufacture, creation, or maintenance of the sign. **THE COURT**  
2 **THEREFORE ORDERS** Ad Art, Inc.'s Motion for Summary Judgment based upon the issue of  
3 ownership of Ad Art, Inc. is **DENIED**.

4 **B. Strict Products Liability v. Premises Liability**

5 Under Calloway v. City of Reno, "one is strictly liable for a dangerously defective product  
6 is one is a seller 'engaged in the business of selling such a product.'" 116 Nev. 250 (2000). The  
7 Court finds Ad Art, Inc. is a manufacturer of signs. The fact that the MGM sign is one of a kind  
8 does not preclude such a claim against its manufacturer, Ad Art, Inc. Further, it follows that if the  
9 MGM sign is a product, then it cannot be a premise to which premises liability can attach. **THE**  
10 **COURT THEREFORE FURTHER ORDERS** Ad Art, Inc.'s Motion for Summary Judgment as  
11 to premises liability is **GRANTED**.

12 **C. Statute of Repose**

13 Under NRS 11.190, NRS 11.220, and Fisher v. ProFl Compounding Ctrs of Am., Inc. the  
14 statute of limitations for product liability cases is 4 years. 311 F.Supp 2d. 1008, 1017-18 (Nev.  
15 2012). That period does not run from the date of injury, rather, it starts when the "injured party  
16 discovers or reasonably should have discovered facts supporting a cause of action." Fisher. The  
17 Court finds Plaintiff's Complaint stems from personal injuries he suffered as a result of the  
18 defective product. Under NRS 11.190(4), the statute of limitations is 2 years. Plaintiff fell on July  
19 31, 2013 and his Complaint was filed on July 30, 2015. Therefore, the Complaint was filed within  
20 the requisite time frame. **THE COURT THEREFORE FURTHER ORDERS** Ad Art, Inc.'s  
21 Motion for Summary Judgment as to the statute of limitations is **DENIED**.

22 ///

23 ///

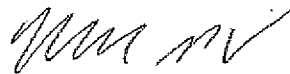
24 ///

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

1 THE COURT THEREFORE ORDERS Defendant Ad Art, Inc.'s Motion for Summary

2 Judgment is DENIED IN PART and GRANTED IN PART.


3 DATED this 20 day of October 2017.

4  
5 

6 HON. MICHAEL VILLANI  
7 DISTRICT COURT JUDGE *Flr*

8 Submitted by:

9 BRENSKE & ANDREEVSKI

10  
11   
12 WILLIAM R. BRENSKE, ESQ.

13 Nevada Bar No. 1806

14 RYAN D. KRAMETBAUER, ESQ.

15 Nevada Bar No. 12800

16 3800 Howard Hughes Parkway, Suite 500


17 Las Vegas, NV 89169

18 Attorneys for Plaintiff,

19 Charles Schueler

20 Approved as to form and content by:

21 RAY LEGO & ASSOCIATES

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24 TIMOTHY F. HUNTER, ESQ.

25 Nevada Bar No.: 10622

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27 Las Vegas, Nevada 89113

28 Attorney for Defendant,

Ad Art, Inc.

ORIGINAL

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Steven D. Grieron  
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*Steven D. Grieron*

ORDG  
ALVERSON, TAYLOR,  
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Attorneys for Defendant  
3A COMPOSITES USA INC., a/k/a  
ALUCOBOND TECHNOLOGIES  
CORPORATION

DISTRICT COURT

CLARK COUNTY, NEVADA

CHARLES SCHUELER,

Plaintiff,

vs.

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

Defendants,

Case No. A-15-722391-C  
Dept No. XVII

ORDER GRANTING DEFENDANT  
3A COMPOSITES USA INC.'S  
MOTION FOR SUMMARY  
JUDGMENT REGARDING LACK OF  
PERSONAL JURISDICTION

Date: April 26, 2017  
Time: 8:30 a.m.

Defendant 3A COMPOSITES USA INC.'s ("3A") Motion for Summary Judgment  
("3A"/"3A's Motion") came on for hearing on April 26, 2017, before The Honorable Michael P.  
Villani. At the hearing, William R. Brenske, Esq., and Ryan Krametbauer, Esq., appeared on behalf  
of Plaintiff CHARLES SCHUELER ("Plaintiff"); Edward Silverman, Esq., appeared on behalf of

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1 Defendant 3A COMPOSITES USA INC. ("3A").; and Timothy F. Hunter, Esq., appeared on behalf  
2 of Defendant AD ART, INC. ("Ad Art"). The Court, having reviewed the parties' pleadings, heard  
3 oral argument regarding 3A's Motion, and then took the matter under advisement, indicating that a  
4 decision would issue from chambers.

5  
6 While 3A's Motion was under advisement, Plaintiff's counsel filed a Motion to Supplement  
7 His Opposition to 3A Composites USA Inc.'s Motion for Summary Judgment Regarding Lack of  
8 Personal Jurisdiction and to Reopen Discovery on Order Shortening Time ("Motion to  
9 Supplement"), the Court's decision on which is the subject of a separate Order. Plaintiff's Motion to  
10 Supplement came on for hearing on May 10, 2017, and at the conclusion thereof, the Court took both  
11 3A's Motion for Summary Judgment and Plaintiff's Motion to Supplement under advisement.

12  
13 THE COURT DOES NOW HEREBY FIND AND ORDER AS FOLLOWS with respect to  
14 3A's Motion for Summary Judgment, which Order includes the undisputed material facts and legal  
15 determinations on which the Court granted summary judgment as required by NRCP 52(a) and  
16 NRCP 56(c):

17  
18 I.

19 FACTUAL FINDINGS

- 20 1. 3A is a Missouri corporation;
- 21 2. 3A's principal place of business is North Carolina;
- 22 3. 3A sold the product at issue in the present case ("subject Alucobond") to a California
- 23 company/buyer ("California buyer");
- 24 4. 3A relinquished any and all ownership and control of the subject Alucobond to the California
- 25 buyer in Benton, Kentucky; and
- 26 5. At the time 3A relinquished ownership and control of the subject Alucobond to the
- 27
- 28

1 California buyer, the California buyer was free to destroy the product or do whatever it saw  
2 fit to do with the product.

3  
4 II.

5 **LEGAL DETERMINATIONS**

6 **1. There Is No General Personal Jurisdiction Over 3A In Nevada**

7 General Personal Jurisdiction exists only when the Defendant's forum state activities are so  
8 continuous and systematic that it is considered present or "essentially at home" in the forum and thus  
9 subject to suit even when the claims at issue are unrelated to the forum. Daimler AG v. Bauman,  
10 134 S. Ct. 746 (2014). "Typically, a corporation is 'at home' only where it is incorporated or has its  
11 principal place of business." Viega GmbH v. Eighth Judicial Dist. Ct., 130 Nev. Adv. Op. 40 (2014)  
12 (citing Daimler, 134 S. Ct. at 760-61). Only in "exceptional cases" will general jurisdiction be  
13 available anywhere else. Ranza v. Nike, Inc., 793 F.3d 1059 (2015) (citing Daimler, 134 S. Ct. at  
14 761 n. 19). The Supreme Court of the United States has expressly rejected the claim that placing  
15 items into the stream of commerce can subject one to general jurisdiction. Goodyear Dunlop Tires  
16 Operations, S.A. v. Brown, 131 S. Ct. 2846, 2857 (2011).

17  
18 THE COURT FINDS there is no general personal jurisdiction over 3A in Nevada. 3A is a  
19 Missouri corporation with its principal place of business in North Carolina. 3A's affiliations with  
20 Nevada are not otherwise so "constant and pervasive" as to render 3A essentially "at home" in  
21 Nevada.  
22

23 **2. There Is No Specific Personal Jurisdiction Over 3A With Respect To The Incident At**  
24 **Issue**

25 A state may exercise specific personal jurisdiction over a defendant where (1) the defendant  
26 purposefully avails himself of the privilege of serving the forum state or the protection of the laws of  
27 the forum state, or where the defendant purposefully establishes contacts with the affirmatively  
28

1 directs conduct toward the forum state, and (2) the cause of action arises from that purposeful contact  
2 with the forum state. Trump v. Eighth Judicial Dist. Ct., 109 Nev. 687 (1993). A court must also  
3 consider whether it is reasonable for the defendant to defend suit in the forum. Baker v. Eighth  
4 Judicial Dist. Ct., 116 Nev. 527 (2000).

5  
6 THE COURT FINDS there is no specific personal jurisdiction over 3A in Nevada with  
7 respect to the incident at issue. 3A's contacts at issue in the present case do not rise to the level of  
8 purposeful availment and/or demonstrate that 3A affirmatively directed the subject Alucobond to  
9 Nevada. Deposition testimony of Steve Anderson, salesperson for the subject Alucobond, makes it  
10 clear that 3A sold the subject Alucobond to a California company/buyer. Upon relinquishing the  
11 product in Benton, Kentucky, 3A's customer (a California company/buyer) was free to destroy the  
12 product or do whatever it saw fit to do with the product. While Plaintiff argues that a "stream of  
13 commerce" theory subjects 3A to specific personal jurisdiction, the United States Supreme Court has  
14 required more than merely knowing that a product will or could go into a forum. See, e.g., Asahi  
15 Metal Indus. Co., Ltd. v. Superior Ct. of Cal., Solano Cnty., 107 St. Ct. 1026, 1032 (1987) "[A]  
16 defendant's awareness that the stream of commerce may or will sweep the product into the forum  
17 State does not convert the mere act of placing the product into the stream into an act purposefully  
18 directed toward the forum State . . ."). Plaintiff here fails to show targeted purposeful availment via  
19 their stream of commerce argument. Moreover, Plaintiff's attempt to impute jurisdiction to 3A  
20 based on an "enterprise theory" based on related but separate legal entities, is also not supported  
21 under the law.  
22  
23

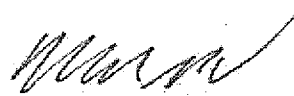
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25 ///

26 ///


THE COURT THEREFORE ORDERS 3A's Motion for Summary Judgment based on  
Lack of Personal Jurisdiction GRANTED.

Dated this 21 day of June, 2017.



DISTRICT COURT JUDGE  
*JB*

Submitted by:  
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By   
LEANN SANDERS, ESQ.  
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Attorneys for Defendant  
3A COMPOSITES USA INC., a/k/a  
ALUCOBOND TECHNOLOGIES CORPORATION

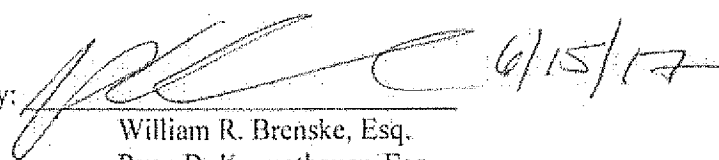
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Schueler v. MGM Grand Hotel, LLC, et al  
Case No. A-15-722391-C

APPROVED AS TO FORM AND CONTENT:

By:

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By:


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*Schueler v. MGM Grand Hotel, LLC, et al*  
*Case No. A-15-722391-C*

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By: \_\_\_\_\_  
  
Timothy F. Hunter, Esq.  
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Las Vegas, NV 89113  
*Attorneys for Defendant AD ART, INC.*

AFFIRMATION  
Pursuant to N.R.S. 239B.030

The undersigned does hereby affirm that the preceding ORDER GRANTING DEFENDANT 3A COMPOSITES USA INC.'S MOTION FOR SUMMARY JUDGMENT REGARDING LACK OF PERSONAL JURISDICTION, filed in District Court Case No.: A-15-722391-C:

X Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

Dated this 15<sup>th</sup> day of June, 2017.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

EDWARD SILVERMAN, ESQ.

Nevada Bar No.: 13584

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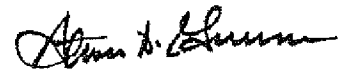
(702) 384-7000

Attorneys for Defendant

3A COMPOSITES USA INC., a/k/a

ALUCOBOND TECHNOLOGIES

CORPORATION



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8 (702) 316-4111  
9 FAX (702) 316-4114

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

12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,  
15 Plaintiff,

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

16 v.

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

27 Defendants.

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

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

///

///

///

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

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

3 HALL JAFFE & CLAYTON, LLP

4  
5 By 

6 RILEY A. CLAYTON

7 Nevada Bar No. 005260

8 7425 Peak Drive

9 Las Vegas, Nevada 89128

10 Attorneys for Defendant,


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

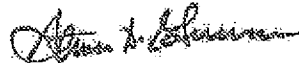
12 **CERTIFICATE OF SERVICE**

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

17 William R. Brenske, Esq.  
18 Ryan D. Krametbauer, Esq.  
19 BRENSKE & ANDREEVSKI  
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22 Tel.: (702) 385-3300  
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*Attorney for Defendant,*  
*Ad Art, Inc.*

29   
30 An Employee of  
31 HALL JAFFE & CLAYTON, LLP



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

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,  
15 Plaintiff,

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

16 v.

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

27 Defendants.

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

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

31 In lieu of oral argument, this Honorable Court, Judge Michael Villani presiding, set the motion  
32 for resolution on its Chambers Calendar. After considered the moving, opposing, and reply briefs, and  
33 the case authority cited therein and finding good cause, the Court issued a minute order on August 16,  
34 2016 with its ruling on the pending motion for reconsideration, and now hereby submits its Findings of

35 Conclusions of Law, and Order.

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AUG 18 2016

1     **I.     FINDINGS OF FACT**

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

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

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

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

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

17     **II.    CONCLUSIONS OF LAW**

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

24            2.     The Nevada Supreme Court has provided guidance regarding whether a landowner  
25    qualifies for immunity from suit under Nevada's workers compensation law when the landowner hires a  
26    licensed contractor to perform work on its property. *See, Richards v. Republic Silver State Disposal,*  
27    *Inc.*, 122 Nev. 1213, 148 P. 634 (2006). In *Richards*, an injured employee, Richards, brought suit

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

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

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

### 23 III. ORDER

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

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

1 therefore, immune from suit by Schueler.


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

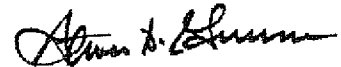
3 Dated this 22 of Aug, 2016.

4  
5   
DISTRICT COURT JUDGE 

6 Submitted by:

7 HALL JAFFE & CLAYTON, LLP

8  
9 By   
10 RILEY A. CLAYTON  
11 Nevada Bar No. 005260  
12 7425 Peak Drive  
13 Las Vegas, Nevada 89128  
14 Attorneys for Defendant,  
15 MGM Grand Hotel, LLC, d/b/a MGM Grand  
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13 Attorney for Defendant,  
14 MGM Grand Hotel, LLC, d/b/a MGM Grand

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 **CHARLES SCHUELER,**  
18 Plaintiff,

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

19 v.

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

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

Defendants.

TO: ALL PARTIES ABOVE-NAMED; and

TO: THEIR RESPECTIVE ATTORNEYS OF RECORD.

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

///

///

///

1 Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b) has been entered on November 3,  
2 2016, a copy of which is attached hereto.

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

4 HALL JAFFE & CLAYTON, LLP

5 By Riley A. Clayton

6 RILEY A. CLAYTON

7 Nevada Bar No. 005260

8 RYAN M. VENCI

9 Nevada Bar No. 007547

7425 Peak Drive

Las Vegas, Nevada 89128

Attorneys for Defendant,

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

10 CERTIFICATE OF SERVICE

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

15 William R. Brenske, Esq.

16 Ryan D. Krametbauer, Esq.

17 BRENSKE & ANDREEVSKI

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22 Leann Sanders, Esq.

23 Edward Silverman, Esq.

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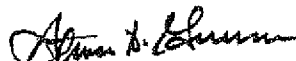
Attorneys for Defendant,

3A Composites USA Inc., f/k/a

Alucobond Technologies Corporation

27 James H. Jaffe  
28 An Employee of HALL JAFFE & CLAYTON, LLP

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15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 CHARLES SCHUELER,  
18 Plaintiff,

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

19 v.

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

Defendants.

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

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

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

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

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

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

5  
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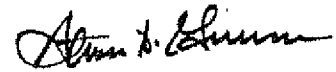
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8 DISTRICT COURT JUDGE **JB**  
MICHAEL P. VILLANI

9 Prepared and Submitted by:

10 HALL JAFFE & CLAYTON, LLP

11  
12  
13 By: 

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CLERK OF THE COURT

1 **ORDR**

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

5  
6 **CHARLES SCHUELER,**

7 **Plaintiff,**

8 **v.**

**Case No. A722391**

**Dept. No. XVII**

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

19 **Defendant.**

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

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

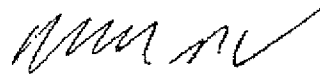
MGM Grand brings the present motion under NRCP 12(c). As such, a motion for judgment  
on the pleading is to be determined similarly to a motion to dismiss for failure to state a claim  
pursuant to NRCP 12(b)(5). See Guise v. GWM Mortgage, LLC, 377 F.3d 795 (7th Cir. 2004). In

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

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

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

20 DATED this 6 day of May, 2016.  
21

22  
23 

24 MICHAEL P. VILLANI, DISTRICT COURT JUDGE  
25


26 MICHAEL P. VILLANI  
27 DISTRICT JUDGE  
28 DEPARTMENT XVII

CERTIFICATE OF SERVICE

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

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

  
Cindy DeGree, Judicial Executive Assistant