

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ANTONETTE PATUSH,
APPELLANT,

v.

LAS VEGAS BISTRO, LLC,
RESPONDENT.

No. 76062 Electronically Filed
Aug 06 2018 09:29 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District 8th Department 10
County CLARK Judge Tierra Jones
District Ct. Case No. A-18-771491-C

2. Attorney filing this docketing statement:

Attorney James P. Kemp Telephone 702-258-1183
Firm Kemp & Kemp, Attorneys at Law
Address
7435 W. Azure Drive, Suite 110
Las Vegas, NV 89130

Client(s) Antonette Patush, Appellant

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 Deanna L. Forbush Telephone 702-862-8300
Firm CLARK HILL, PLLC
Address
3800 Howard Hughes Pkwy., #500
Las Vegas, NV 89169

Client(s) Las Vegas Bistro, LLC, Respondent

Attorney Jeremy J. Thompson Telephone 702-862-8300
Firm CLARK HILL, PLLC
Address
3800 Howard Hughes Pkwy., #500
Las Vegas, NV 89169

Client(s) Las Vegas Bistro, LLC, Respondent

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

N/A

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:

N/A

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

Action for Retaliatory Discharge in Violation of Public Policy by former employee against former employer. Case dismissed on Defendant's NRCP Rule 12(b)(5) motion based on argument that statute of limitations had run.

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

Whether the proper statute of limitations for a common law Retaliatory Discharge in Violation of Public Policy claim is FOUR (4) YEARS under NRS 11.220 "Catch-All" or NRS 11.190(2)(c) as a closely analogous limitation on the personal injury and wrongful death statute NRS 11.190(4)(e). There is no specific limitations period for the Retaliatory Discharge claim set forth anywhere in NRS and the Nevada Appellate Courts have never addressed this issue.

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 to Appellant's knowledge.

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:

The constitutionality of a statute is not at issue, but a denial of due process issue is present in the case.

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: The case presents a substantial issue of first impression as The Supreme Court of Nevada has never before considered or ruled what the applicable statute of limitations is for a claim of Retaliatory Discharge in Violation of Public Policy. The District Court applied a TWO (2) YEAR limitations period under NRS 11.190(4)(e) which applies to personal injury and wrongful death claims. Appellant contends that it is a violation of due process to apply NRS 11.190(4)(e) because no reasonable person reading that statute would ever understand it to apply to an employment matter not involving physical personal injury or wrongful death. Moreover, the plain language of NRS 11.220, the "Catch-All" statute does apply to the Retaliatory Discharge claim and provides a four year statute of limitations.

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:

Under NRAP 17(a)(10) this matter must be retained by the Supreme Court of Nevada because it fits the description:

(10) Matters raising as a principal issue a question of first impression involving the United States or Nevada Constitutions or common law;

The applicable statute of limitations for this common law claim is a matter of first impression in Nevada; further, the matter involves a claim of denial of due process under the United States and Nevada Constitutions.

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?

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from May 30, 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 May 31, 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 June 2, 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:

The District Court's granting of the Respondent's NRCP Rule 12(b)(5) Motion to Dismiss and the order dismissing the action constitutes a final appealable judgment of the District Court.

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

(a) Parties:

Antonette Patush, Plaintiff

Las Vegas Bistro, LLC, Defendant

(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:

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.

Retaliatory Discharge by Plaintiff Antonette Patush dismissed on May 30, 2018 by the District Court.

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.

Antonette Patush
Name of appellant

James P. Kemp
Name of counsel of record

July 31, 2018
Date

/s/ James P. Kemp
Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 31st day of July, 2018, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

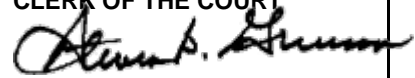
☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Deanna Forbush, Esq.
Jeremy Thompson, Esq.
CLARK HILL, PLLC
3800 Howard Hughes Pkwy, #500
Las Vegas, NV 89169

Lansford Levitt, Settlement Judge
4747 Caughlin Pkwy, #6
Reno, NV 89519

Dated this 31st day of July, 2018

/s/ James P. Kemp
Signature



JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
KEMP & KEMP
7435 W. Azure Drive, Ste 110
Las Vegas, NV 89130
702-258-1183 ph./702-258-6983 fax
jp@kemp-attorneys.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTONETTE PATUSH,

Plaintiff,

vs.

LAS VEGAS BISTRO, LLC; DOES I-X; ROE
BUSINESS ENTITIES I-X,

Defendants.

Case No.: A-18-771491-C

Dept No.: Department 10

COMPLAINT

JURY TRIAL DEMANDED

**Arbitration Exemption: action seeking
equitable or extraordinary relief.**

COMES NOW Plaintiff, ANTONETTE PATUSH, by and through Counsel, KEMP &
KEMP, ATTORNEYS AT LAW, and hereby complains and alleges the following:

JURISDICTION

1. ANTONETTE PATUSH (herein "Plaintiff") is a resident of Clark County, Nevada. The amount in controversy in this case is in excess of \$15,000.00.
2. Defendant LAS VEGAS BISTRO, LLC (herein "Defendant"), which does business at "LARRY FLYNT'S HUSTLER CLUB is a Nevada Limited Liability Company. It is registered with the Nevada Secretary of State, has a Nevada state business license and has

KEMP & KEMP
ATTORNEYS AT LAW
7435 W. Azure Drive, Suite 110
LAS VEGAS, NEVADA 89130
Tel. (702) 258-1183 • Fax (702) 258-6983

continuous and ongoing business operations in the state of Nevada and Clark County. Plaintiff reserves the right to amend this Complaint to name any and all appropriate parties in addition to this Defendant or instead of this Defendant should Plaintiff learn of additional or different facts from those set forth herein, or as a result of further discovery, analysis, and fact development in this case.

3. Plaintiff is unaware of the true names and capacities whether individuals, corporations, associates, or otherwise of Defendants DOE INDIVIDUALS I through X and ROE BUSINESS ENTITIES I through X, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes and thereupon alleges that the Defendants, and each of them, are in some manner responsible and liable for the acts and damages alleged in this Complaint. Plaintiff will seek leave of this Court to amend this Complaint to allege the true names and capacities of the DOE INDIVIDUAL and ROE CORPORATION Defendants when the true names of the DOE INDIVIDUAL and ROE CORPORATION Defendants are ascertained.
4. The Court has jurisdiction over the parties named herein and the subject matter of this case.
5. This action has been timely filed.

FACTS COMMON TO ALL CLAIMS

6. Plaintiff began her employment with Defendant on February 6, 2013 as an Office Manager. Her employment was terminated by Defendant on or about July 4, 2014.
7. Plaintiff sustained a serious on-the-job industrial injury to her knee, cervical spine, lumbar spine, and other body parts on April 10, 2014. On that date the Claimant was working as an Office Manager/Payroll person for Defendant, which may have then been known as National

Association of Entertainers,¹ which operates Larry Flynt's Hustler Club in Clark County, Nevada.

8. On the date of injury the Claimant was walking down a hallway near her office in Defendant's premises. She tripped over a rug on the floor in the hallway and fell hard to the floor. A video recording of the accident was submitted and is part of the record.

9. Plaintiff timely filled out a C-4 form claim for workers' compensation.

10. Plaintiff's workers' compensation claim was duly accepted on May 8, 2014 and benefits were paid on the claim

11. At the time of her termination, set forth herein, Plaintiff was working full duty.

12. Plaintiff was terminated on or about July 3, 2014.

13. Plaintiff was terminated by the General Manager Kelly Jones.

14. General Manager Kelly Jones was hostile, rude, and intimidating when he told Plaintiff that she had too many doctor's appointments. Plaintiff told Jones that the doctor appointments were to treat her workers' compensation injury. Jones said, in a hostile manner, that he did not care and then he fired her. Jones also told Plaintiff that her termination was ordered by Jason Mohny who was the owner of Defendant.

15. The true reason for Plaintiff's termination is retaliation because she was injured on the job and filed and pursued a workers' compensation claim under the Nevada Industrial Insurance Act.

16. Plaintiff, as a manager for Defendant, had attended training where she and others were instructed that they should "say something else" as the reason for terminating employees with workers' compensation claims even though the real reason was the workers' compensation claim. In other words, the management employees were instructed to come up with pre-

¹ The Employer may have changed its name and/or reformed itself into a different entity during the relevant time period and Plaintiff reserves the right to amend this Complaint to substitute or add the correct entity if necessary under the "Doe" and "Roe" pleading paragraph herein.

1 textual reasons for terminating workers' compensation claimants in order to be able to avoid
2 liability for retaliatory discharge.

3 17. Plaintiff was given the false and pre-textual reason of being a "no call/no show" on certain
4 days and with stealing a cell phone from the "lost & found" items held by Defendant (items
5 left by customers). These reasons were false and malicious.

6 18. Plaintiff's employment was terminated by Defendant in retaliation for her being injured on the
7 job and her filing of a valid Workers Compensation claim and, thus, exercising her rights
8 under the Nevada Industrial Insurance Act.

9 19. Termination of Plaintiff's employment was in violation of strong public policy of the state of
10 Nevada.

11 20. Plaintiff suffered mental anguish and emotional distress as a direct and proximate result of
12 Defendant's actions.

13 21. Plaintiff has suffered and will suffer lost wages and/or benefits of employment as a direct and
14 proximate result of the actions of the Defendant.

15 22. The actions of Defendants were willful, malicious, fraudulent, or oppressive, and calculated to
16 discourage Plaintiff and other of Defendants' employees from pursuing their rights under
17 Nevada law. The Defendants should be subjected to Punitive and Exemplary damages to
18 deter future conduct of this sort.

19 23. Plaintiff should be reinstated to her position with all wages, benefits, and seniority restored as
20 though the unlawful and tortious termination had never occurred.

21 24. Plaintiff has been required to hire an attorney and expend fees and costs to pursue her rights
22 through this action.

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26 **WHEREFORE**, Plaintiff expressly reserves the right to amend his Complaint at or before
27 the time of trial of the action herein to include all items of damages not yet ascertained, and
28

demands judgment against the Defendants, upon each of them, for all applicable money damages and extraordinary or equitable relief provided for under common law and Nevada state law including, but not limited to the following:

1. Money damages in excess of \$10,000.00;
2. Economic damages including, but not limited to, lost wages and benefits of employment, incidental and consequential damages;
3. General damages including emotional distress and general economic harm;
4. Nominal damages;
5. Punitive and/or Exemplary Damages to deter the Defendants from future malicious, fraudulent, and oppressive conduct of a similar nature;
6. Pre-judgment and post-judgment interest on the amounts awarded at the prevailing legal rate;
7. Reasonable attorney fees, reasonable expert witness fees, and other costs of the action pursuant to statute, agreement, or court rule;
8. For extraordinary and equitable relief ordering that the Plaintiff shall be reinstated to his position with all wages, benefits, and seniority restored as though the unlawful and tortious termination had never occurred;

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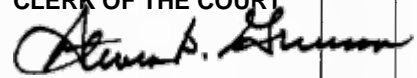
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- B. A trial by jury on all issues that may be tried to a jury; and/or
- C. For such other and further relief as the Court may deem just and proper.

DATED this 21st day of March 2018.

_____/s/ James P. Kemp
JAMES P. KEMP, ESQ.
Nevada Bar No.: 6375
KEMP & KEMP
7435 W. Azure Drive, Ste 110
Las Vegas, NV 89130
702-258-1183 ph./702-258-6983 fax

Attorneys for Plaintiff



Deanna L. Forbush, Esq.
Nevada Bar No. 6646
Jeremy J. Thompson, Esq.
Nevada Bar No. 12503
CLARK HILL, PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
ph. (702) 862-8300; fax (702) 862-8400
Email: dforbush@clarkhill.com
Email: jthompson@clarkhill.com
Attorneys for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTONETTE PATUSH,

Plaintiff,

vs.

LAS VEGAS BISTRO, LLC; DOES I-X;
ROE BUSINESS ENTITIES I-X,

Defendants.

Case No.: A-18-771491-C
Dept. No.: 10

**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS**

WHEREAS, the above-captioned matter came on for hearing on Tuesday, May 15, 2018 in Department 10, before the Honorable Tierra Jones, in the Eighth Judicial District Court, Clark County, Nevada. Defendant, Las Vegas Bistro, LLC ("Defendant"), appeared in person, by and through its counsel of record, Deanna L. Forbush, Esq. of Clark Hill PLLC, and Plaintiff Antonette Patush ("Plaintiff"), appeared telephonically, by and through her counsel of record, James P. Kemp, Esq. of the law firm Kemp & Kemp.

The following matter was on calendar for hearing:

- *Defendant's Motion to Dismiss, and Plaintiff's Opposition thereto.*

The Court having reviewed all papers on file herein, and after accepting oral argument, for good cause appearing, hereby finds, notes and orders as follows:

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

1 It is the established public policy of the state that the retaliatory discharge of an employee
2 by an employer stemming from the filing of a workmen's compensation claim by an injured
3 employee is actionable in tort. Both the cause of action and its remedy are governed by the law
4 of tort. Hansen v. Harrah's, 100 Nev. 60, 675 P.2d 394, 115 L.R.R.M. (BNA) 3024, 105
5 Lab.Cas. P 55,663 (1984);

6 And finding further that, while this kind of public policy tort cannot ordinarily be
7 committed absent the employer-employee relationship, the tort, the wrong itself, is not dependent
8 upon or directly related to a contract of continued employment. D'Angelo v. Gardner, 107 Nev.
9 704, 819 P.2d 206, 123 Lab.Cas. P 57,099 (1991);

10 Based upon the foregoing, it is hereby concluded that the appropriate statute of
11 limitations for the retaliatory discharge of an employee in violation of public policy is governed
12 by the law of tort, and that the applicable statute of limitation for said cause of action is the 2
13 year statute of limitation set forth at NRS 11.190(e)(4).
14

15 **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is hereby **GRANTED**;

16 Dated this 25 day of May, 2018.

17
18
19 THE HONORABLE TIERRA JONES
20 *to*

21 Respectfully submitted by:

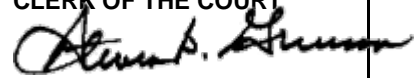
22 CLARK HILL, PLLC

23
24 Deanna L. Forbush, Esq. (NSBN 6646)
25 Attorneys for Defendant

26 Respectfully submitted by:

27 KEMP & KEMP

28 James P. Kemp, Esq. (NSBN 6375)
Attorneys for Plaintiff



Deanna L. Forbush, Esq.
Nevada Bar No. 6646
Jeremy J. Thompson, Esq.
Nevada Bar No. 12503
CLARK HILL, PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
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email: dforbush@clarkhill.com
email: jthompson@clarkhill.com
Attorneys for Plaintiff

**DISTRICT COURT
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ROE BUSINESS ENTITIES I-X,

Defendants.

Case No.: **A-18-771491-C**
Dept. No.: **10**

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order Granting Defendant's Motion to Dismiss was entered on the 30th day of May 2018, a copy of which is attached hereto.

Dated this 31st day of May, 2018.

CLARK HILL, PLLC

By /s/ Deanna L. Forbush

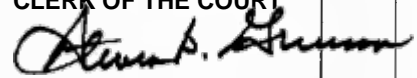
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Jeremy J. Thompson, Esq. (NSBN 12503)
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
ph. (702) 862-8300; fax (702) 862-8400
Attorneys for Defendants

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☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☒ via electronic service by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk.

/s/ *Natasha Martinez*
An Employee of Clark Hill, PLLC



Deanna L. Forbush, Esq.
Nevada Bar No. 6646
Jeremy J. Thompson, Esq.
Nevada Bar No. 12503
CLARK HILL, PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
ph. (702) 862-8300; fax (702) 862-8400
Email: dforbush@clarkhill.com
Email: jthompson@clarkhill.com
Attorneys for Defendant

**DISTRICT COURT
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6 And finding further that, while this kind of public policy tort cannot ordinarily be
7 committed absent the employer-employee relationship, the tort, the wrong itself, is not dependent
8 upon or directly related to a contract of continued employment. D'Angelo v. Gardner, 107 Nev.
9 704, 819 P.2d 206, 123 Lab.Cas. P 57,099 (1991);

10 Based upon the foregoing, it is hereby concluded that the appropriate statute of
11 limitations for the retaliatory discharge of an employee in violation of public policy is governed
12 by the law of tort, and that the applicable statute of limitation for said cause of action is the 2
13 year statute of limitation set forth at NRS 11.190(e)(4).
14

15 **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is hereby **GRANTED**;

16 Dated this 25 day of May, 2018.

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18
19 THE HONORABLE TIERRA JONES
20 *to*

21 Respectfully submitted by:

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23
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