

NOAS
CAMPBELL & WILLIAMS
DONALD J. CAMPBELL, ESQ. (1216)
[dj@cwlawlv.com](mailto:djc@cwlawlv.com)
SAMUEL R. MIRKOVICH, ESQ. (11662)
srm@cwlawlv.com
PHILIP R. ERWIN, ESQ. (11563)
pre@cwlawlv.com
700 South Seventh Street
Las Vegas, Nevada 89101
Telephone: (702) 382-5222
Facsimile: (702) 382-0540

Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

PETER GARDNER and CHRISTIAN GARDNER,)
individually and on behalf of minor child, LELAND)
GARDNER,)

Plaintiffs,)

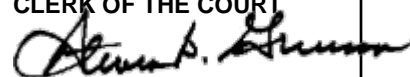
vs.)

HENDERSON WATER PARK, LLC dba)
COWABUNGA BAY WATER PARK, a Nevada)
limited liability company; WEST COAST WATER)
PARKS, LLC, a Nevada limited liability company;)
DOUBLE OTT WATER HOLDINGS, LLC, a Utah)
limited liability company; ORLUFF OPHEIKENS,)
an individual; SLADE OPHEIKENS, an individual;)
CHET OPHEIKENS, an individual; SHANE)
HUIH, an individual; SCOTT HUIH, an)
individual; CRAIG HUIH, an individual; TOM)
WELCH, an individual; R&O CONSTRUCTION)
COMPANY, a Utah corporation; DOES I through)
X, inclusive; ROE Corporations I through X,)
Inclusive and ROE Limited Liability Company I)
through X, inclusive,)

Defendants.)

AND ALL RELATED CLAIMS)

Electronically Filed
10/25/2018 11:03 AM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Oct 30 2018 02:02 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: A-15-722259-C
Dept. No.: XXX

NOTICE OF APPEAL

1 Please take notice that Plaintiffs Peter Gardner and Christian Gardner, individually and on
2 behalf of minor child, Leland Gardner hereby appeal to the Nevada Supreme Court from the “Order
3 Granting Defendant R & O Construction, Inc.’s Motion to Dismiss and Motions to Associate,”
4 notice of entry of which was filed and e-served on October 24, 2018 (attached hereto as Exhibit
5 “1”). This appeal is procedurally proper pursuant to the Court’s certification of its Order under
6 NRCP 54(b). *Id.*

7 DATED this 25th day of October, 2018.

8 CAMPBELL & WILLIAMS

9 By /s/ Donald J. Campbell

10 Donald J. Campbell, Esq. (1216)

11 Samuel R. Mirkovich, Esq. (11662)

12 Philip R. Erwin, Esq. (11563)

13 700 South Seventh Street

14 Las Vegas, Nevada 89101

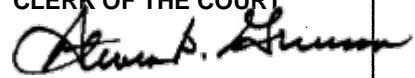
15 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Campbell & Williams, and that on this 25th day of October, 2018 I caused the foregoing document entitled **Notice of Appeal** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ John Y. Chong
An Employee of Campbell & Williams

EXHIBIT 1



1 **NEOJ**
John E. Gormley, Esq.
2 Nevada Bar No. 001611
3 **OLSON, CANNON, GORMLEY**
4 **ANGULO & STOBERSKI**
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
5 Telephone: 702-384-4012
Facsimile: 702-383-0701
6

7 Karen Porter
Nevada Bar No. 13099
8 Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
9 **GODFREY | JOHNSON**
9557 S. Kingston Court
10 Englewood, Colorado 80112
Telephone: 303-228-0700
11 Facsimile: 303-228-0701
12

13 Attorneys for Defendants
14 **R&O CONSTRUCTION,**
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

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

17
18 PETER GARDNER and CHRISTIAN
19 GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

20 Plaintiffs,

21 vs.

22 HENDERSON WATER PARK, LLC dba
23 COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
24 COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
25 WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
26 an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
27 individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
28 HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
DOES 1 through X, inclusive,

12 Third-Party Defendants.

13
14 **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION,**
15 **INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE**

16
17 TO: ALL PARTIES AND THEIR RESPECTIVE COUNSEL

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

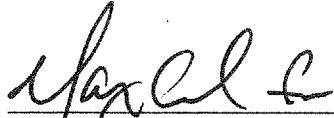
26 ///

27 ///

1 PLEASE TAKE NOTICE that an Order Granting Defendant R & O Construction, Inc.'s
2 Motion to Dismiss and Motions to Associate has been entered in the above-entitled Court on the
3 23rd day of October, 2018, a copy of which is attached hereto.

4 Dated October 24, 2018.

5 OLSON, CANNON, GORMLEY,
6 ANGULO & STOBERSKI

7 

8 JOHN E. GORMLEY, Esq.
9 Nevada Bar No. 001611
10 9950 West Cheyenne Avenue
11 Las Vegas, Nevada 89129
12 Attorney for Defendants

13 Karen Porter
14 Nevada Bar No. 13099
15 Brett Godfrey (Admitted Pro Hac Vice)
16 Jeffrey Vail (Admitted Pro Hac Vice)
17 GODFREY JOHNSON
18 9557 South Kingston Court
19 Englewood, CO 80112
20 Attorneys for Defendants
21 *R&O CONSTRUCTION,*
22 *TOM WELCH; ORLUFF OPHEIKENS;*
23 *SLADE OPHEIKENS; and CHET*
24 *OPHEIKENS*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2018, I sent via e-mail a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION, INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE** on the Clark County E-File Electronic Service List (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Donald J. Campbell, Esq.
Samuel R. Mirkovich, Esq.
Philip R. Erwin, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101
Attorneys for Plaintiffs
*PETER GARDNER and CHRISTIAN
GARDNER on behalf of minor child,
LELAND GARDNER*

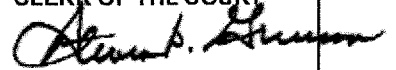
Rebecca L. Mastrangelo, Esq.
ROGERS, MASTRANGELO, CARVALHO
& MITCHELL
700 S. Third Street
Las Vegas, NV 89101
Attorney for Defendants
*SCOTT HUISH, CRAIG HUISH and
WEST COAST WATER PARKS, LLC*

Paul F. Eisinger, Esq.
Douglas J. Duesman, Esq.
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 East Bridger Avenue
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Defendant/Third-Party Plaintiff
*HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK*

Marsha L. Stephenson, Esq.
STEPHENSON & DICKINSON
2820 W. Charleston Blvd, Suite 17
Las Vegas, NV 89102
Attorney for Third-Party Defendant
WILLIAM PATRICK RAY, JR.

Steven T. Jaffe, Esq.
Kevin S. Smith, Esq.
HALL JAFFE & CLAYTON, LLP
7425 Peak Drive
Las Vegas, NV 89128
Attorneys for Defendant
SHANE HUISH


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI



ORDR

John E. Gormley, Esq.
Nevada Bar No. 001611
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702-384-4012
Facsimile: 702-383-0701

Karen Porter
Nevada Bar No. 13099
Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
GODFREY | JOHNSON
9557 S. Kingston Court
Englewood, Colorado 80112
Telephone: 303-228-0700
Facsimile: 303-228-0701

Attorneys for Defendants
R&O CONSTRUCTION,
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PETER GARDNER and CHRISTIAN
GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

Plaintiffs,

vs.

HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**ORDER GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

**Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.**

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
DOES 1 through X, inclusive,

12 Third-Party Defendants.

13
14 This matter having come on for hearing on the 10th day of October, 2018, before the
15 Honorable Judge Jerry Wiese, on Defendant R & O CONSTRUCTION, INC.'s ("R&O") MOTION
16 TO DISMISS; Plaintiffs appearing by and through their counsel J. Colby Williams, Esq., and Philip
17 R. Erwin, Esq., of Campbell & Williams; Defendant R&O appearing by and through its counsel
18 Jeffrey S. Vail, Esq. and Brett M. Godfrey, Esq., of Godfrey | Johnson, P.C., and Defendants TOM
19 WELCH, ORLUFF OPHEIKENS, CHET OPHEIKENS, AND SLADE OPHEIKENS
20 (collectively "The Individual Defendants") appearing by and through their counsel Max E. Corrick,
21 II, Esq. and John E. Gormley, Esq., of Olson, Cannon, Gormley, Angulo, and Stoberski, who also
represent R&O in this matter.

22 The Court having considered the papers, pleadings, and oral arguments, orders as follows:

- 23 1. Plaintiffs filed their Third Amended Complaint on July 30, 2018, which asserted in its
24 Third Cause of Action a single claim for relief against R&O for Reverse Piercing of the
25 Corporate Veil.
26 2. Defendant R&O has filed a Motion to Dismiss this sole claim for relief against R&O
27 pursuant to NRCP 12(b)(5), asserting, *inter alia*, that Plaintiffs had failed to properly
28

1 state an *alter ego* claim under NRS § 78.747, and that a pre-judgment claim for relief
2 for reverse piercing of the corporate veil is impermissible under the circumstances
3 presented in this case. The Individual Defendants filed a timely joinder to R&O's
4 Motion. An Opposition was timely filed by Plaintiffs, and R&O and The Individual
5 Defendants filed their respective Replies.

- 6
- 7 3. Additionally, at oral argument, R&O's counsel moved for the Court to grant their
8 pending Motion to Associate, and thereby to appear before this Court *pro hac vice*.
9 Plaintiffs did not oppose that Motion. The Court grants the pending Motion to
10 Associate.
- 11 4. Pursuant to *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 8 P.3d 841 (2000),
12 NRS 78.747, and because Plaintiffs' sole claim for relief against R&O does not allege
13 negligence or any other wrongful conduct by R&O and will, therefore, confuse the jury,
14 Plaintiffs are barred from asserting their claim of relief for reverse piercing of the
15 corporate veil against R&O prior to an uncollectible judgment being entered in this case
16 against Orluff Opheikens.
- 17 5. Accordingly, the Court finds that Plaintiffs have failed to state a claim against R&O
18 upon which relief may be granted. The Court specifically notes that it has not
19 considered any exhibit to any filing related to R&O's Motion in reaching its conclusion.
20 Therefore, the Court grants R&O's Motion to Dismiss Plaintiffs' Third Cause of Action
21 pursuant to NRCP 12(b)(5) without prejudice.

22 WHEREFORE, it is hereby ordered, adjudged and decreed that R & O Construction, Inc.'s
23 Motion to Dismiss is granted without prejudice, and its Motion to Associate is granted.
24 Furthermore, there being no just reason for delay, this Court determines, directs and certifies that
25 final judgment is entered in favor of R&O pursuant to NRCP 54(b).

26 Dated this 22 day of October, 2018.

27 
HONORABLE JERRY WIESE MD

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

Respectfully submitted by:

Approved as to form and content by:

Dated this 19th day of October, 2018

Dated this 19th day of October, 2018

GODFREY | JOHNSON

CAMPBELL & WILLIAMS

By: /s/ Karen Porter

By: /s/ Philip R. Erwin

KAREN PORTER

PHILLIP R. ERWIN

Nevada Bar No. 13099

Nevada Bar No. 11563

9557 S. Kingston Ct.

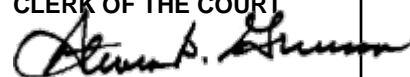
700 S. Seventh St.

Englewood, CO 80112

Las Vegas, NV 89101

Attorneys for R&O

Attorneys for Plaintiffs



ASTA
CAMPBELL & WILLIAMS
DONALD J. CAMPBELL, ESQ. (1216)
[dj@cwlawlv.com](mailto:djc@cwlawlv.com)
SAMUEL R. MIRKOVICH, ESQ. (11662)
srm@cwlawlv.com
PHILIP R. ERWIN, ESQ. (11563)
pre@cwlawlv.com
700 South Seventh Street
Las Vegas, Nevada 89101
Telephone: (702) 382-5222
Facsimile: (702) 382-0540

Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

PETER GARDNER and CHRISTIAN GARDNER,)
individually and on behalf of minor child, LELAND)
GARDNER,)

Plaintiffs,)

vs.)

HENDERSON WATER PARK, LLC dba)
COWABUNGA BAY WATER PARK, a Nevada)
limited liability company; WEST COAST WATER)
PARKS, LLC, a Nevada limited liability company;)
DOUBLE OTT WATER HOLDINGS, LLC, a Utah)
limited liability company; ORLUFF OPHEIKENS,)
an individual; SLADE OPHEIKENS, an individual;)
CHET OPHEIKENS, an individual; SHANE)
HUIH, an individual; SCOTT HUIH, an)
individual; CRAIG HUIH, an individual; TOM)
WELCH, an individual; R&O CONSTRUCTION)
COMPANY, a Utah corporation; DOES I through)
X, inclusive; ROE Corporations I through X,)
Inclusive and ROE Limited Liability Company I)
through X, inclusive,)

Defendants.)

AND ALL RELATED CLAIMS)

Case No.: A-15-722259-C
Dept. No.: XXX

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
Peter Gardner and Christian Gardner, individually and on behalf of minor child, Leland Gardner.
2. Identify the judge issuing the decision, judgment, or order appealed from:
The Honorable Judge Jerry A. Wiese II, District Court Judge.
3. Identify each appellant and the name and address of counsel for each appellant:
Appellants:
Peter Gardner and Christian Gardner, individually and on behalf of minor child, Leland Gardner.
Counsel:
CAMPBELL & WILLIAMS
Donald J. Campbell, Esq.
J. Colby Williams, Esq.
Philip R. Erwin, Esq.
Samuel R. Mirkovich, Esq.
700 South Seventh Street
Las Vegas, Nevada 89101
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
Respondent:
R&O Construction, Inc.
Counsel:
GODFREY JOHNSON
Brett Godfrey, Esq.
Jeffrey Vail, Esq.
Karen Porter, Esq.
9557 S. Kingston Court
Englewood, Colorado 80112
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
John E. Gormley, Esq.

9950 West Cheyenne Avenue
Las Vegas, Nevada 89129

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

Brett Godfrey, Esq. and Jeffrey Vail, Esq. of the law firm Godfrey Johnson are not licensed to practice law in Nevada. The district court granted Messrs. Godfrey and Vail permission to appear under SCR 42 in its Order Granting Defendant R & O Construction, Inc.'s Motion to Dismiss and Motions to Associate, which is attached hereto as Exhibit "1."

6. Indicate whether appellant is represented by appointed or retained counsel in the district court:

Retained counsel.

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

Retained counsel.

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

N/A

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

The Complaint was filed on July 28, 2015.

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

This case arises from the severe non-fatal drowning of six-year old Leland Gardner on May 27, 2015 in the wave pool at the Cowabunga Bay water park in Henderson, Nevada. The Gardners

1 have asserted claims for negligence against Defendants Henderson Water Park, LLC, Orluff
2 Opheikens, Slade Opheikens, Chet Opheikens, Tom Welch, Shane Huish, Scott Huish and Craig Huish
3 (collectively referred to as the “Individual Defendants”). The Gardners have also asserted claims under
4 the alter ego doctrine against Henderson Water Park, LLC, West Coast Water Parks, LLC, Double Ott
5 Water Holdings, LLC, and the Individual Defendants.

6 On July 30, 2018, the Gardners filed their Third Amended Complaint and named R&O
7 Construction, Inc. (“R&O”) as an alter ego defendant only under a reverse veil-piercing theory
8 premised on the Gardners’ negligence claim against Orluff Opheikens. On October 23, 2018, the
9 district court granted R&O’s Motion to Dismiss on grounds that the Gardners are barred from
10 asserting a reverse veil-piercing claim under the alter ego doctrine prior to the entry of an
11 uncollectible judgment against Orluff Opheikens. As a result, the district court dismissed R&O as
12 a defendant from the action. The district court granted NRCP 54(b) certification of its order and
13 the Gardners commenced the instant appeal.
14

15 11. Indicate whether the case has previously been the subject of an appeal to or original writ
16 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the
17 prior proceeding:
18

19 ***Gardner on Behalf of L.G. v. Eighth Judicial District Court, Supreme Court No. 70823***

20 The Gardners filed an original writ proceeding in the Supreme Court regarding the denial
21 of their motion for leave to amend in which the Gardners sought to assert direct claims for
22 negligence against the Individual Defendants who served on Henderson Water Park, LLC’s
23 Management Committee and plead allegations related to the alter ego doctrine. The district court
24 denied the Gardners’ motion for leave to amend on grounds that the Individual Defendants were
25 immune from any liability under NRS 86.371 and NRS 86.381. The district court also denied leave to
26 amend to assert alter ego allegations on grounds that the alter ego doctrine does not apply to LLCs.
27
28

The Supreme Court granted the Gardners' writ petition in its entirety. *See Gardner on Behalf of L.G. v. Eighth Judicial District Court*, 405 P.3d 651 (Nev. 2017).

The caption and Supreme Court docket number of the original writ proceeding was as follows:

Peter and Christian Gardner, on behalf of minor child, Leland Gardner, Petitioners

v.

Eighth Judicial District Court of the State of Nevada, in and for the County of Clark; and the

Honorable Jerry A. Wiese II, District Judge

and

Henderson Water Park, LLC dba Cowabunga Bay Water Park, West Coast Water Parks, LLC,

and Double Ott Water Holdings, LLC, Real Parties in Interest

Supreme Court No. 70823

Gardner v. Henderson Water Park, LLC, Supreme Court No. 71652

Following the district court's denial of the Gardners' motion for leave to amend to assert direct claims for negligence against the Individual Defendants, the district court granted Defendants' motion for summary judgment as to Defendants West Coast Water Parks, LLC and Double Ott Water Holdings, LLC on grounds that the member-LLCs of Henderson Water Park, LLC were immune from any liability under NRS 86.371 and NRS 86.381. The Gardners appealed the district court's ruling to the Supreme Court. Although the Supreme Court held that (contrary to the district court's ruling) NRS 86.371 and NRS 86.381 do not shield LLC members from liability for personal negligence, the Supreme Court denied the Gardners' appeal on grounds that they had not pleaded sufficient allegations that the member-LLCs of Henderson Water Park, LLC were personally negligent. *See Gardner v. Henderson Water Park, LLC*, 399 P.3d 350 (Nev. 2017).

The caption and Supreme Court docket number of the appeal was as follows:

Peter and Christian Gardner, on behalf of minor child, Leland Gardner, Appellants

v.

Henderson Water Park, LLC dba Cowabunga Bay Water Park, West Coast Water Parks, LLC,
 and Double Ott Water Holdings, LLC, Respondents
 Supreme Court No. 71652

Henderson Water Park, LLC v. Eighth Judicial District Court, Supreme Court No. 73997

Henderson Water Park, LLC filed an original writ proceeding in the Supreme Court regarding the discovery commissioner’s order compelling the production of allegedly privileged and “private” e-mails, which was affirmed by the district court. The Supreme Court denied Henderson Water Park, LLC’s writ petition without directing an answer.

The caption and Supreme Court docket number of the original writ proceeding was as follows:
 Henderson Water Park, LLC dba Cowabunga Bay Water Park, West Coast Water Parks, LLC,
 and Double Ott Water Holdings, LLC, Real Parties in Interest
 v.
 Eighth Judicial District Court of the State of Nevada, in and for the County of Clark; and the
 Honorable Jerry A. Wiese II, District Judge
 and
 Peter and Christian Gardner, on behalf of minor child, Leland Gardner, Petitioners
 Supreme Court No. 73997

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

N/A

.....

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
No, there is no possibility of settlement until the Supreme Court resolves the issue presented
by the pending appeal.

DATED this 25th day of October, 2018.

CAMPBELL AND WILLIAMS

By /s/ Donald J. Campbell

Donald J. Campbell, Esq. (1216)

Samuel R. Mirkovich, Esq. (11662)

Philip R. Erwin, Esq. (11563)

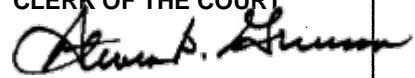
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Campbell & Williams, and that on this 25th day of October, 2018 I caused the foregoing document entitled **Case Appeal Statement** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ John Y. Chong
An Employee of Campbell & Williams

EXHIBIT 1



NEOJ

John E. Gormley, Esq.
Nevada Bar No. 001611
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702-384-4012
Facsimile: 702-383-0701

Karen Porter
Nevada Bar No. 13099
Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
GODFREY | JOHNSON
9557 S. Kingston Court
Englewood, Colorado 80112
Telephone: 303-228-0700
Facsimile: 303-228-0701

Attorneys for Defendants
R&O CONSTRUCTION,
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PETER GARDNER and CHRISTIAN
GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

Plaintiffs,
vs.

HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

**Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.**

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
5 LIABILITY COMPANY I through X,
6 inclusive,

7 Defendants.

8 HENDERSON WATER PARK, LLC dba
9 COWABUNGA BAY WATER PARK, a
10 Nevada limited liability company,

11 Third-Party Plaintiff,

12 vs.

13 WILLIAM PATRICK RAY, JR.; and
14 DOES 1 through X, inclusive,

15 Third-Party Defendants.

16
17 **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION,**
18 **INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE**
19

20 TO: ALL PARTIES AND THEIR RESPECTIVE COUNSEL

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

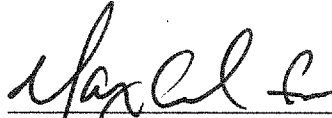
///

///

1 PLEASE TAKE NOTICE that an Order Granting Defendant R & O Construction, Inc.'s
2 Motion to Dismiss and Motions to Associate has been entered in the above-entitled Court on the
3 23rd day of October, 2018, a copy of which is attached hereto.

4 Dated October 24, 2018.

5 OLSON, CANNON, GORMLEY,
6 ANGULO & STOBERSKI

7 

8 JOHN E. GORMLEY, Esq.
9 Nevada Bar No. 001611
10 9950 West Cheyenne Avenue
11 Las Vegas, Nevada 89129
12 Attorney for Defendants

13 Karen Porter
14 Nevada Bar No. 13099
15 Brett Godfrey (Admitted Pro Hac Vice)
16 Jeffrey Vail (Admitted Pro Hac Vice)
17 GODFREY JOHNSON
18 9557 South Kingston Court
19 Englewood, CO 80112
20 Attorneys for Defendants
21 *R&O CONSTRUCTION,*
22 *TOM WELCH; ORLUFF OPHEIKENS;*
23 *SLADE OPHEIKENS; and CHET*
24 *OPHEIKENS*
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2018, I sent via e-mail a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION, INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE** on the Clark County E-File Electronic Service List (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Donald J. Campbell, Esq.
Samuel R. Mirkovich, Esq.
Philip R. Erwin, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101
Attorneys for Plaintiffs
*PETER GARDNER and CHRISTIAN
GARDNER on behalf of minor child,
LELAND GARDNER*

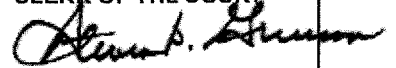
Rebecca L. Mastrangelo, Esq.
ROGERS, MASTRANGELO, CARVALHO
& MITCHELL
700 S. Third Street
Las Vegas, NV 89101
Attorney for Defendants
*SCOTT HUISH, CRAIG HUISH and
WEST COAST WATER PARKS, LLC*

Paul F. Eisinger, Esq.
Douglas J. Duesman, Esq.
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 East Bridger Avenue
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Defendant/Third-Party Plaintiff
*HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK*

Marsha L. Stephenson, Esq.
STEPHENSON & DICKINSON
2820 W. Charleston Blvd, Suite 17
Las Vegas, NV 89102
Attorney for Third-Party Defendant
WILLIAM PATRICK RAY, JR.

Steven T. Jaffe, Esq.
Kevin S. Smith, Esq.
HALL JAFFE & CLAYTON, LLP
7425 Peak Drive
Las Vegas, NV 89128
Attorneys for Defendant
SHANE HUISH


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI



ORDR

John E. Gormley, Esq.
Nevada Bar No. 001611
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702-384-4012
Facsimile: 702-383-0701

Karen Porter
Nevada Bar No. 13099
Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
GODFREY | JOHNSON
9557 S. Kingston Court
Englewood, Colorado 80112
Telephone: 303-228-0700
Facsimile: 303-228-0701

Attorneys for Defendants
R&O CONSTRUCTION,
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PETER GARDNER and CHRISTIAN
GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

Plaintiffs,

vs.

HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**ORDER GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
DOES 1 through X, inclusive,

12 Third-Party Defendants.

13
14 This matter having come on for hearing on the 10th day of October, 2018, before the
15 Honorable Judge Jerry Wiese, on Defendant R & O CONSTRUCTION, INC.'s ("R&O") MOTION
16 TO DISMISS; Plaintiffs appearing by and through their counsel J. Colby Williams, Esq., and Philip
17 R. Erwin, Esq., of Campbell & Williams; Defendant R&O appearing by and through its counsel
18 Jeffrey S. Vail, Esq. and Brett M. Godfrey, Esq., of Godfrey | Johnson, P.C., and Defendants TOM
19 WELCH, ORLUFF OPHEIKENS, CHET OPHEIKENS, AND SLADE OPHEIKENS
20 (collectively "The Individual Defendants") appearing by and through their counsel Max E. Corrick,
21 II, Esq. and John E. Gormley, Esq., of Olson, Cannon, Gormley, Angulo, and Stoberski, who also
represent R&O in this matter.

22 The Court having considered the papers, pleadings, and oral arguments, orders as follows:

- 23 1. Plaintiffs filed their Third Amended Complaint on July 30, 2018, which asserted in its
24 Third Cause of Action a single claim for relief against R&O for Reverse Piercing of the
25 Corporate Veil.
26 2. Defendant R&O has filed a Motion to Dismiss this sole claim for relief against R&O
27 pursuant to NRCP 12(b)(5), asserting, *inter alia*, that Plaintiffs had failed to properly
28

1 state an *alter ego* claim under NRS § 78.747, and that a pre-judgment claim for relief
2 for reverse piercing of the corporate veil is impermissible under the circumstances
3 presented in this case. The Individual Defendants filed a timely joinder to R&O's
4 Motion. An Opposition was timely filed by Plaintiffs, and R&O and The Individual
5 Defendants filed their respective Replies.

- 6
- 7 3. Additionally, at oral argument, R&O's counsel moved for the Court to grant their
8 pending Motion to Associate, and thereby to appear before this Court *pro hac vice*.
9 Plaintiffs did not oppose that Motion. The Court grants the pending Motion to
10 Associate.
- 11 4. Pursuant to *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 8 P.3d 841 (2000),
12 NRS 78.747, and because Plaintiffs' sole claim for relief against R&O does not allege
13 negligence or any other wrongful conduct by R&O and will, therefore, confuse the jury,
14 Plaintiffs are barred from asserting their claim of relief for reverse piercing of the
15 corporate veil against R&O prior to an uncollectible judgment being entered in this case
16 against Orluff Opheikens.
- 17 5. Accordingly, the Court finds that Plaintiffs have failed to state a claim against R&O
18 upon which relief may be granted. The Court specifically notes that it has not
19 considered any exhibit to any filing related to R&O's Motion in reaching its conclusion.
20 Therefore, the Court grants R&O's Motion to Dismiss Plaintiffs' Third Cause of Action
21 pursuant to NRCP 12(b)(5) without prejudice.

22 WHEREFORE, it is hereby ordered, adjudged and decreed that R & O Construction, Inc.'s
23 Motion to Dismiss is granted without prejudice, and its Motion to Associate is granted.
24 Furthermore, there being no just reason for delay, this Court determines, directs and certifies that
25 final judgment is entered in favor of R&O pursuant to NRCP 54(b).

26 Dated this 22 day of October, 2018.

27 
HONORABLE JERRY WIESE MD

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

Respectfully submitted by:

Approved as to form and content by:

Dated this 19th day of October, 2018

Dated this 19th day of October, 2018

GODFREY | JOHNSON

CAMPBELL & WILLIAMS

By: /s/ Karen Porter

By: /s/ Philip R. Erwin

KAREN PORTER

PHILLIP R. ERWIN

Nevada Bar No. 13099

Nevada Bar No. 11563

9557 S. Kingston Ct.

700 S. Seventh St.

Englewood, CO 80112

Las Vegas, NV 89101

Attorneys for R&O

Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-722259-C

Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

§
§
§
§
§
§

Location: **Department 30**
 Judicial Officer: **Wiese, Jerry A.**
 Filed on: **07/28/2015**
 Cross-Reference Case Number: **A722259**
 Supreme Court No.: **71652**

CASE INFORMATION

Case Type: **Negligence - Premises Liability**

Case Status: **07/28/2015 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-15-722259-C
 Court Department 30
 Date Assigned 07/28/2015
 Judicial Officer Wiese, Jerry A.

PARTY INFORMATION

Plaintiff	Gardner, Christian	Campbell, Donald J. <i>Retained</i> 7023825222(W)
	Gardner, Peter	Campbell, Donald J. <i>Retained</i> 7023825222(W)
Defendant	Cowabunga Bay Water Park Removed: 11/03/2016 Data Entry Error	
	Double Ott Water Holdings LLC Removed: 10/10/2016 Dismissed	
	Double Ott Water Holdings LLC	Gormley, John Earley <i>Retained</i> 7023844012(W)
	Henderson Water Park, LLC	Eisinger, Paul F. <i>Retained</i> 7023660622(W)
	Huish, Craig	Mastrangelo, Rebecca L. <i>Retained</i> 702-383-3400(W)
	Huish, Scott	Mastrangelo, Rebecca L. <i>Retained</i> 702-383-3400(W)
	Huish, Shane	Jaffe, Steven T. <i>Retained</i> 7023164111(W)
	National Aquatic Safety Company LLC Removed: 12/18/2017	

CASE SUMMARY

CASE NO. A-15-722259-C

Inactive

Opeikens, Orluff

Gormley, John Earley
Retained
7023844012(W)

Opheikens, Chet

Gormley, John Earley
Retained
7023844012(W)

Opheikens, Slade

Gormley, John Earley
Retained
7023844012(W)

R and O Construction Company

Porter, Karen J.
Retained
702-255-1718(W)

Welch, Tom

Gormley, John Earley
Retained
7023844012(W)

West Coast Water Parks LLC
Removed: 10/10/2016
Dismissed

West Coast Water Parks LLC

Mastrangelo, Rebecca L.
Retained
702-383-3400(W)

Cross Claimant Double Ott Water Holdings LLC

Gormley, John Earley
Retained
7023844012(W)

Opeikens, Orluff

Gormley, John Earley
Retained
7023844012(W)

Opheikens, Chet

Gormley, John Earley
Retained
7023844012(W)

Opheikens, Slade

Gormley, John Earley
Retained
7023844012(W)

Welch, Tom

Gormley, John Earley
Retained
7023844012(W)

Cross Defendant Ray Jr., Willam Patrick

Stephenson, Marsha L
Retained
7024747229(W)

Subject Minor Gardner, Leland

Campbell, Donald J.
Retained
7023825222(W)

Third Party Defendant Ray Jr., Willam Patrick

Stephenson, Marsha L
Retained
7024747229(W)

Third Party Plaintiff Henderson Water Park, LLC

Eisinger, Paul F.
Retained
7023660622(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX

CASE SUMMARY

CASE NO. A-15-722259-C

EVENTS


07/28/2015	 Complaint Filed By: Plaintiff Gardner, Peter <i>Complaint</i>
07/28/2015	 Initial Appearance Fee Disclosure Filed By: Plaintiff Gardner, Peter <i>Initial Appearance Fee Disclosure</i>
08/05/2015	 Summons Filed by: Plaintiff Gardner, Peter <i>Summons</i>
08/05/2015	 Summons Filed by: Plaintiff Gardner, Peter <i>Summons</i>
08/14/2015	 Summons Filed by: Plaintiff Gardner, Peter <i>Summons</i>
08/26/2015	 Answer to Complaint Filed by: Third Party Plaintiff Henderson Water Park, LLC <i>Answer to Complaint</i>
08/26/2015	 Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Initial Appearance Fee Disclosure by Defendants</i>
09/03/2015	 Summons Filed by: Plaintiff Gardner, Peter <i>Summons</i>
09/15/2015	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
09/23/2015	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption</i>
10/15/2015	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
10/15/2015	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
10/15/2015	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum to Jennifer P. Bradley</i>
11/06/2015	 Joint Case Conference Report

CASE SUMMARY


CASE NO. A-15-722259-C

Filed By: Plaintiff Gardner, Peter
Joint Case Conference Report


12/14/2015

 Scheduling Order
Scheduling Order


01/06/2016

 Order Setting Jury Trial
Order Setting Jury Trial


01/14/2016

 Motion to Quash
Filed By: Third Party Plaintiff Henderson Water Park, LLC
Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition

02/02/2016

 Opposition
Filed By: Plaintiff Gardner, Peter
Plaintiffs' Opposition to Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition

02/29/2016

 Reply to Opposition
Filed by: Third Party Plaintiff Henderson Water Park, LLC
Reply in Support of Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition


03/09/2016

 Recorders Transcript of Hearing
Recorder's Transcript of Proceedings - Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition March 2, 2016

03/09/2016

 Motion to Compel
Filed By: Plaintiff Gardner, Peter
Plaintiffs' Motion to Compel Defendant Henderson Water Park, LLC's Responses to Plaintiffs' First Set of Requests for Production and Order Shortening Time

03/17/2016

 Opposition to Motion to Compel
Filed By: Third Party Plaintiff Henderson Water Park, LLC
Opposition to Plaintiffs' Motion to Compel

03/21/2016

 Recorders Transcript of Hearing
Recorder's Transcript of Proceedings - Plaintiffs' Motion to Compel Defendant Henderson Water Park, LLC's Responses to Plaintiffs' First Set of Requests for Production and OST - heard on March 18, 2016


04/12/2016

 Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Deposition Out of State

04/12/2016

 Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Deposition Out of State

04/12/2016

 Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Depositions Out of State


04/12/2016


 Application for Issuance of Commission to Take Deposition


CASE SUMMARY

CASE NO. A-15-722259-C


Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Deposition Out of State


04/12/2016  Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Deposition Out of State


04/12/2016  Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Depositions Out of State


04/12/2016  Application for Issuance of Commission to Take Deposition
Party: Plaintiff Gardner, Peter
Application for Issuance of Commission to Take Depositions Out of State


04/12/2016  Motion to Compel
Filed By: Plaintiff Gardner, Peter
Plaintiffs' Motion to Compel Communications Between Defendants and Jennifer Bradley and Order Shortening Time


04/18/2016  Opposition to Motion to Compel
Filed By: Third Party Plaintiff Henderson Water Park, LLC
Water Park Defendants and Jennifer Bradley's Opposition - Motion to Compel Communications


04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum


04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum

04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum

04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum

04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum of COR of 3i Advertising, LLC





04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum

04/20/2016  Subpoena Duces Tecum
Filed by: Plaintiff Gardner, Peter
Subpoena Duces Tecum

04/20/2016  Subpoena Duces Tecum











CASE SUMMARY

CASE NO. A-15-722259-C

	Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/20/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/20/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/20/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/22/2016	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings - Transcript Re: Plaintiffs' Motion to Compel Communications Between Defendants and Jennifer Bradley and Order Shortening Time - heard on April 20, 2016</i>
04/28/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/28/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/28/2016	 Subpoena Duces Tecum Filed by: Plaintiff Gardner, Peter <i>Subpoena Duces Tecum</i>
04/28/2016	 Objection Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Objection to the Discovery Commissioner's March 2, 2016 Report and Recommendations</i>
04/29/2016	 Reporters Transcript <i>Transcript of Proceedings: Telephone Conference April 21, 2016</i>
05/03/2016	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
05/03/2016	 Objection Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Objection to the Discovery Commissioner's March 2, 2016 Report and Recommendations</i>
05/05/2016	 Motion for Leave to File Party: Plaintiff Gardner, Peter <i>Plaintiffs' Motion for Leave to File Amended Complaint.</i>
05/16/2016	 Response














CASE SUMMARY

CASE NO. A-15-722259-C

	Filed by: Third Party Plaintiff Henderson Water Park, LLC <i>Water Park Defendants and Subpoena Target Jennifer Bradley's Response Brief to Plaintiffs' Objection to Discovery Commissioner's March 2, 2016 Report and Recommendations</i>
05/18/2016	 Motion to Quash Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Water Park Defendants' Motion to Quash Subpoenas to Non-Parties</i>
05/19/2016	 Reply in Support Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Reply in Support of Objection to the Discovery Commissioner's March 2, 2016 Report and Recommendations</i>
05/23/2016	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendants' Opposition to Plaintiffs' Motion for Leave to File Amended Complaint and Add Individual Defendants</i>
05/23/2016	 Order Filed By: Plaintiff Gardner, Peter <i>Proposed Protective Order Regarding Confidential Information</i>
05/25/2016	 Notice of Deposition Filed By: Plaintiff Gardner, Peter <i>Notice to Take Videotaped Deposition of Armoni Hanson.</i>
05/27/2016	 Objection to Discovery Commissioners Report and Recommend Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Re-Filing of Water Park Defendant's Objection to Acting Discovery Commissioner's March 18, 2016 Report and Recommendations</i>
05/31/2016	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
06/08/2016	 Notice Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Non-Availability of Paul F. Eisinger, Esq. and Alexandra McLeod, Esq.</i>
06/09/2016	 Stipulation and Order Filed by: Plaintiff Gardner, Peter <i>Stipulation and Order to Extend Discovery Deadlines (First Request)</i>
06/09/2016	 Reply in Support Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Reply in Support of Motion for Leave to File Amended Complaint</i>
06/13/2016	 Notice of Entry of Order Filed By: Plaintiff Gardner, Peter <i>Notice of Entry of Order</i>
07/05/2016	 Notice of Entry of Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Entry of Order Denying Plaintiffs' Motion for Leave to Amend Complaint</i>

CASE SUMMARY

CASE NO. A-15-722259-C

07/05/2016	 Order Denying Motion Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Order Denying Plaintiffs' Motion for Leave to Amend Complaint</i>
07/19/2016	 Order Setting Jury Trial <i>Amended Order Setting Jury Trial</i>
07/20/2016	 Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations</i>
07/22/2016	 Motion Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations or in the Alternative, for Order Setting Ribeiro Hearing</i>
08/03/2016	 Report and Recommendations Filed by: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
08/11/2016	 Notice of Entry of Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Entry of Order Affirming Discovery Commissioner's March 22, 2016 Report and Recommendations</i>
08/12/2016	 Motion for Summary Judgment Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Motion for Summary Judgment as to Claims Against Defendants West Coast and Double OTT</i>
08/16/2016	 Certificate of Service Filed by: Third Party Plaintiff Henderson Water Park, LLC <i>Certificate of Service</i>
08/16/2016	 Motion for Protective Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Water Park Defendants' Motion for Protective Order Regarding Site Inspection on Order Shortening Time</i>
08/16/2016	 Motion to Compel Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Motion to Compel Production of Documents.</i>
08/17/2016	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Opposition to Plaintiffs' Motion for Reconsideration</i>
08/25/2016	 Opposition Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Opposition to Defendants' Motion for Protective Order Regarding Site Inspection on Order Shortening Time</i>
08/25/2016	 Reply in Support Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Water Park Defendants' Reply in Support of Motion for Protective Order regarding site</i>

CASE SUMMARY

CASE NO. A-15-722259-C

Inspection on Order Shortening Time

08/29/2016



Opposition

Filed By: Plaintiff Gardner, Peter

Plaintiffs' Opposition to Motion for Summary Judgment as to Claims Against Defendants West Coast and Double Ott

08/30/2016



Reply in Support

Filed By: Plaintiff Gardner, Peter

Plaintiffs' Reply in Support of Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations or, in the Alternative, for Order Setting Ribeiro Hearing

09/06/2016



Opposition

Filed By: Third Party Plaintiff Henderson Water Park, LLC

Water Park Defendants' Opposition to Plaintiffs' Motion to Compel Production of Documents

09/07/2016



Recorders Transcript of Hearing

Recorder's Transcript of Proceedings - Water Park Defendants' Motion for Protective Order Regarding Site Inspection on OST - heard on August 26, 2016

09/08/2016



Reply in Support

Filed By: Third Party Plaintiff Henderson Water Park, LLC

Reply in Support of Motion for Summary Judgment as to Claims Against Defendants West Coast and Double OTT

09/09/2016



Reply in Support

Filed By: Plaintiff Gardner, Peter

Plaintiffs' Reply in Support of Motion to Compel Production of Documents

09/12/2016



Subpoena Duces Tecum

Filed by: Plaintiff Gardner, Peter

Subpoena Duces Tecum

09/12/2016



Subpoena Duces Tecum

Filed by: Plaintiff Gardner, Peter

Subpoena Duces Tecum

09/13/2016



Stipulation and Order

Filed by: Plaintiff Gardner, Peter

Stipulation and Order to Extend Discovery Deadlines (Second Request)

09/13/2016



Subpoena

Filed by: Plaintiff Gardner, Peter

Subpoena

09/13/2016



Subpoena

Filed by: Plaintiff Gardner, Peter

Subpoena

09/14/2016



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Gardner, Peter

Notice of Entry of Stipulation and Order

09/22/2016



CASE SUMMARY

CASE NO. A-15-722259-C

	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings - Plaintiffs' Motion to Compel Production of Documents - heard on Sept. 16, 2016</i>
09/23/2016	 Motion Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Motion for Leave to File Amended Complaint</i>
09/23/2016	 Application Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Application for Attorneys' Fees</i>
09/23/2016	 Order Setting Jury Trial <i>Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>
10/10/2016	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Opposition to Plaintiffs' Application for Attorneys' Fees</i>
10/10/2016	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant's Limited Opposition to Plaintiffs' Motion for Leave to File Amended Complaint</i>
10/10/2016	 Order Granting Motion Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Order Granting Motion for Summary Judgment as to Defendants West Coast and Double OTT Only</i>
10/11/2016	 Motion Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Motion for NRCP 54(b) Certification of Order Granting Defendants' Motion for Summary Judgment as to Claims Against West Coast and Double Ott and Order Shortening Time</i>
10/12/2016	 Reply in Support Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Reply in Support of Application for Attorneys' Fees</i>
10/13/2016	 Notice of Entry of Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Entry of Order Granting Motion for Summary Judgment as to Defendants West Coast and Double OTT Only</i>
10/17/2016	 Objection Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant's Objection To Discovery Commissioner's Report And Recommendations From September 16, 2016 Hearing</i>
10/18/2016	 Reply in Support Filed By: Plaintiff Gardner, Peter <i>Plaintiffs' Reply in Support of Motion for Leave to File Amended Complaint</i>
10/19/2016	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Opposition to Plaintiffs' Motion for NRCP 54(b) Certification</i>









CASE SUMMARY

CASE NO. A-15-722259-C

10/21/2016	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings - Status Check: Compliance - heard on Oct. 14, 2016</i>
10/24/2016	 Response Filed by: Plaintiff Gardner, Peter <i>Plaintiffs' Response to Defendant's Objection to Discovery Commissioner's Report and Recommendations from September 16, 2016 Hearing</i>
10/26/2016	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
10/26/2016	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
10/27/2016	 Notice of Entry of Order Filed By: Plaintiff Gardner, Peter <i>Notice of Entry of Order</i>
11/01/2016	 Order Granting Motion Filed By: Plaintiff Gardner, Peter <i>Order Granting Plaintiffs' Motion for NRCP 54(b) Certification of Order Granting Defendants' Motion for Summary Judgment as to Claims Against West Coast and Double Ott</i>
11/02/2016	 Notice of Entry of Order Filed By: Plaintiff Gardner, Peter <i>Notice of Entry of Order</i>
11/02/2016	 Notice of Appeal Filed By: Plaintiff Gardner, Peter <i>Notice of Appeal</i>
11/02/2016	 Case Appeal Statement Filed By: Plaintiff Gardner, Peter <i>Case Appeal Statement</i>
11/03/2016	 Notice of Entry of Order Filed By: Plaintiff Gardner, Peter <i>Notice of Entry of Order</i>
11/03/2016	 Order Granting Motion Filed By: Plaintiff Gardner, Peter <i>Order Granting Plaintiffs' Motion for Leave to File Amended Complaint</i>
11/08/2016	 First Amended Complaint Filed By: Plaintiff Gardner, Peter <i>First Amended Complaint</i>
11/09/2016	 Order Denying Motion Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Order Denying Plaintiffs' Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations</i>

CASE SUMMARY













CASE NO. A-15-722259-C

11/10/2016	 Notice of Hearing Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Hearing</i>
11/17/2016	 Summons Filed by: Plaintiff Gardner, Peter <i>Summons - National Aquatic Safety Company LLC</i>
11/30/2016	 Third Party Complaint TPP: Third Party Plaintiff Henderson Water Park, LLC <i>Answer to First Amended Complaint and Third-Party Complaint Against William Patrick Ray, Jr.</i>
12/06/2016	 Answer to Amended Complaint Filed By: Defendant National Aquatic Safety Company LLC <i>Answer to First Amended Complaint</i>
12/06/2016	 Initial Appearance Fee Disclosure Filed By: Defendant National Aquatic Safety Company LLC <i>Initial Appearance Fee Disclosure</i>
12/15/2016	 Objection Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant's Objection to Discovery Commissioner's Report and Recommendations from October 14, 2016 Hearing Regarding Attorneys Fees</i>
12/16/2016	 Reporters Transcript <i>Reporter's Transcript of Motion for Summary Judgment as to Claims Against West Coast and Double Ott - 9-13-2016</i>
12/22/2016	 Response Filed by: Plaintiff Gardner, Peter <i>Plaintiffs' Response to Defendants' Objection to Discovery Commissioner's Report and Recommendations from October 14, 2016 Hearing Regarding Attorney's Fees</i>
01/18/2017	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Gardner, Peter <i>Discovery Commissioner's Report and Recommendation</i>
01/18/2017	 Summons Filed by: Third Party Plaintiff Henderson Water Park, LLC <i>Summons</i>
02/03/2017	 Initial Appearance Fee Disclosure Filed By: Cross Defendant Ray Jr., Willam Patrick <i>Third-Party Defendant William Patrick Ray, Jr.'s Initial Appearance Fee Disclosure</i>
02/03/2017	 Demand for Jury Trial Filed By: Cross Defendant Ray Jr., Willam Patrick <i>Third-Party Defendant William Patrick Ray, Jr.'s Demand for Jury Trial</i>
02/03/2017	 Answer to Complaint Filed by: Cross Defendant Ray Jr., Willam Patrick

CASE SUMMARY

CASE NO. A-15-722259-C

Third-Party Defendant William Patrick Ray, Jr.'s Answer to Third-Party Complaint

02/23/2017	 Motion for Determination of Good Faith Settlement Filed By: Defendant National Aquatic Safety Company LLC <i>Defendant National Aquatic Safety Company, LLC's Motion for Good Faith Settlement Determination</i>
03/16/2017	 Opposition Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant Henderson Water Park, LLC's Opposition to NASCO's Motion for Determination of Good Faith Settlement</i>
03/23/2017	 Reply in Support Filed By: Defendant National Aquatic Safety Company LLC <i>Defendant National Aquatic Safety Company, LLC's Reply in Support of its Motion for Good Faith Settlement Determination</i>
03/23/2017	 Response Filed by: Plaintiff Gardner, Peter <i>Plaintiffs' Response to Defendant Henderson Water Park, LLC's Opposition to Defendant National Aquatic Safety Company, LLC's Motion for Good Faith Settlement Determination</i>
03/27/2017	 Supplemental Joint Case Conference Report Party: Plaintiff Gardner, Peter <i>Supplement to Joint Case Conference Report</i>
04/26/2017	 Order Granting Filed By: Plaintiff Gardner, Peter <i>Order Granting Defendant National Aquatic Safety Company, L.L.C.'s Motion for Good Faith Settlement Determination</i>
04/28/2017	 Notice of Entry of Order Filed By: Plaintiff Gardner, Peter <i>Notice of Entry of Order</i>
04/28/2017	 Notice of Entry of Order Filed By: Defendant National Aquatic Safety Company LLC <i>Notice of Entry of Order</i>
05/10/2017	 Motion to Compel Filed By: Plaintiff Gardner, Christian <i>Plaintiffs' Motion to Compel Production of Documents from Defendant Cowabunga Bay</i>
05/17/2017	 Motion for Protective Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant, Cowabunga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on Order Shortening Time</i>
05/17/2017	 Receipt of Copy <i>Receipt of Copy of Defendant Cowabunga Bay's Motion for Protective Order Regarding NTCP 30(b)(6) Deposition on Order Shortening Time</i>
05/18/2017	 Receipt of Copy <i>Receipt of Copy of Defendant, Cowabunga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on Order Shortening Time</i>

CASE SUMMARY

CASE NO. A-15-722259-C

05/18/2017	 Supplemental Filed by: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant, Cowabunga Bay's Supplemental Brief in Support of Motion for Protective Order Regarding NRCP 30(b)(6) Deposition</i>
05/18/2017	 Opposition Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland <i>Plaintiffs' Opposition to Defendant Cowanubga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on Order Shortening Time</i>
05/26/2017	 Petition to Disburse Money From Compromise of Minors Claim Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland <i>Petition to Distribute Partial Settlement Proceeds to Plaintiffs Peter and Christian Gardner</i>
06/01/2017	 Opposition <i>Cowabunga Bay's Opposition to Plaintiffs' Fourth Motion to Compel</i>
06/02/2017	 Recorders Transcript of Hearing <i>Recorders Transcript of Proceedings - Defendant Cowabunga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on OST - 5/19/17</i>
06/07/2017	 Reply in Support Filed By: Plaintiff Gardner, Christian <i>Plaintiff's Reply In Support of Motion to Compel Production of Documents from Defendant Cowabunga Bay</i>
06/12/2017	 Amended Order Setting Jury Trial <i>Amended Order Setting Jury Trial</i>
06/12/2017	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Gardner, Christian <i>Stipulation and Order to Extend Discovery Deadlines</i>
06/20/2017	 Recorders Transcript of Hearing <i>Recorders Transcript of Proceedings - Plaintiffs' Motion to Compel Production of Documents From Defendant Cowabunga Bay - heard on June 14, 2017</i>
06/27/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Gardner, Christian <i>Notice of Entry of Stipulation and Order</i>
07/10/2017	 Objection to Discovery Commissioners Report and Recommend Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant's Objection to Discovery Commissioner's Report and Recommendations from June 14, 2017 Hearing Regarding Plaintiff's Fourth Motion to Compel</i>
07/10/2017	 Motion Filed By: Plaintiff Gardner, Christian <i>Plaintiffs' Motion for Order Shortening Time for Expedited Hearing of Plaintiffs' Petition to Distribute Partial Settlement Proceeds to Plaintiffs Peter and Christian Gardner</i>
07/10/2017	 Notice of Hearing

CASE SUMMARY

CASE NO. A-15-722259-C

Filed By: Plaintiff Gardner, Christian
Notice of Hearing

07/18/2017



Response

Filed by: Third Party Plaintiff Henderson Water Park, LLC
Cowabunga Bay's Response to Plaintiff's Petition to Distribute Partial Settlement Proceeds to Leland Gardner's Parents

07/18/2017



Receipt of Copy

Filed by: Third Party Plaintiff Henderson Water Park, LLC
Receipt of Copy of Cowabunga Bay's Response to Plaintiff's Petition to Distribute Partial Settlement Proceeds to Leland Gardner's Parents (Campbell & Williams)

07/18/2017



Receipt of Copy

Filed by: Third Party Plaintiff Henderson Water Park, LLC
Receipt of Copy of Cowabunga Bay's Response to Plaintiff's Petition to Distribute Partial Settlement Proceeds to Leland Gardner's Parents (Stephenson & Dickinson)

07/20/2017



Response

Filed by: Plaintiff Gardner, Christian
Plaintiff's Response to Defendant's Objection to Discovery Commissioner's Report and Recommendations from the June 14, 2017 Hearing

07/21/2017



Discovery Commissioners Report and Recommendations

Filed By: Plaintiff Gardner, Christian
Discovery Commissioner's Report and Recommendation

07/28/2017



Notice of Entry of Order

Filed By: Plaintiff Gardner, Christian
Notice of Entry of Order

08/08/2017



Affidavit of Service

Filed By: Plaintiff Gardner, Christian
Affidavit of Service of Subpoena Duces Tecum to Chet Opheikens

08/14/2017



Order

Filed By: Plaintiff Gardner, Christian
Order Affirming the Discovery Commissioner's June 29, 2017 Report and Recommendations

08/14/2017



Notice of Entry of Order

Filed By: Plaintiff Gardner, Christian
Notice of Entry of Order

08/16/2017



Reporters Transcript

Filed By: Third Party Plaintiff Henderson Water Park, LLC; Subject Minor Gardner, Leland
Reporter's Transcript of Defendant's Objection to Discovery Commissioner's Report and Recommendations from June 14, 2017, hearing regarding Plaintiffs' Fourth Motion to Compel August 10, 2017

08/17/2017



Motion to Stay

Filed By: Third Party Plaintiff Henderson Water Park, LLC
Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time



08/18/2017



Affidavit of Service

CASE SUMMARY

CASE NO. A-15-722259-C

	Filed By: Plaintiff Gardner, Christian <i>Affidavit of Service-Subpoena Duces Tecum to Vicki Opheikens</i>
08/18/2017	 Addendum Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant's Addendum to Motion for Stay of Order on Discovery Commissioner's Report & Recommendations, Pending Resolution of Petition for Writ</i>
08/23/2017	 Affidavit of Service Filed By: Plaintiff Gardner, Christian <i>Affidavit of Service- Subpoena Duces Tecum to Tom Welch</i>
08/28/2017	 Opposition Filed By: Plaintiff Gardner, Christian <i>Plaintiffs' Opposition to Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time</i>
08/31/2017	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
09/19/2017	 Application for Issuance of Commission to Take Deposition Party: Plaintiff Gardner, Christian <i>Application for Issuance of Commission to Take the Deposition of National Aquatic Safety Company (NASCO)</i>
09/21/2017	 Commission Issued Party: Plaintiff Gardner, Christian <i>Commission to Take the Deposition of National Aquatic Safety Company (NASCO) and Subpoena Duces Tecum</i>
10/17/2017	 Order <i>Order Rescheduling Pre Trial Conference Presently Scheduled on 6/4/18 at 9:00am</i>
10/31/2017	 Order Granting Motion <i>Order Granting Defendant, Henderson Water Park, LLC's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations Pending Resolution of Petition for Writ</i>
11/02/2017	 Stipulation and Order Filed by: Plaintiff Gardner, Christian <i>Stipulation and Order to Extend Discovery Deadlines (Fourth Request)</i>
11/08/2017	 Notice of Entry of Order Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Notice of Entry of Order Granting Defendant, Henderson Water Park, LLC's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations Pending Resolution of Petition for Writ</i>
11/17/2017	 Notice of Entry of Order Filed By: Plaintiff Gardner, Christian <i>Notice of Entry of Order</i>
12/15/2017	 Status Report Filed By: Plaintiff Gardner, Christian

CASE SUMMARY

CASE NO. A-15-722259-C

Plaintiffs' Status Report Regarding the Court's Order Granting Defendant Henderson Water Park, LLC's Motion for Stay of Order on Discovery Commissioner's Report and Recommendation Pending Resolution of Writ Petition

12/18/2017



Brief

Filed By: Third Party Plaintiff Henderson Water Park, LLC
Defendant, Cowabunga Bay's Brief Re: December 19, 2017 Status Check

12/18/2017



Second Amended Complaint

Filed By: Plaintiff Gardner, Christian
Second Amended Complaint

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons to Slade Opheikens

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

12/20/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

01/10/2018



Answer and Third Party Complaint

TPP: Third Party Plaintiff Henderson Water Park, LLC
Answer to Second Amended Complaint and Third-Party Complaint

01/17/2018



Affidavit of Service

Filed By: Plaintiff Gardner, Christian
Affidavit of Service

01/17/2018



Proof of Service

Filed by: Plaintiff Gardner, Christian
Proof of Service of Second Amended Complaint for Double Ott Water Holdings, LLC (proof of service)

01/17/2018



Summons




CASE SUMMARY

CASE NO. A-15-722259-C

	Filed by: Plaintiff Gardner, Christian <i>Summons</i>
01/17/2018	 Summons Filed by: Plaintiff Gardner, Christian <i>Summons</i>
01/17/2018	 Summons Filed by: Plaintiff Gardner, Christian <i>Summons</i>
01/17/2018	 Summons Filed by: Plaintiff Gardner, Christian <i>Summons</i>
01/23/2018	 Stipulation and Order Filed by: Plaintiff Gardner, Christian <i>Stipulation and Order to Extend Discovery Deadlines</i>
01/24/2018	 Notice of Entry of Order Filed By: Plaintiff Gardner, Christian <i>Notice of Entry of Order</i>
02/01/2018	 Answer to Amended Complaint Filed By: Defendant Huish, Scott <i>Defendant Scott Huish's Answer to Second Amended Complaint</i>
02/01/2018	 Initial Appearance Fee Disclosure Filed By: Defendant Huish, Scott <i>Initial Appearance Fee Disclosure</i>
02/01/2018	 Answer to Amended Complaint Filed By: Defendant Huish, Craig <i>Defendant Craig Huish's Answer to Second Amended Complaint</i>
02/01/2018	 Initial Appearance Fee Disclosure Filed By: Defendant Huish, Craig <i>Initial Appearance Fee Disclosure</i>
02/01/2018	 Demand for Jury Trial Filed By: Defendant Huish, Scott; Defendant Huish, Craig <i>Demand for Jury Trial</i>
02/01/2018	 Disclosure Statement Party: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orloff; Cross Claimant Opeikens, Slade; Cross Claimant Opeikens, Chet; Cross Claimant Welch, Tom <i>Defendants' Disclosure Statement Pursuant to NRCP 7.1</i>
02/01/2018	 Demand for Jury Trial Filed By: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orloff; Cross Claimant Opeikens, Slade; Cross Claimant Opeikens, Chet; Cross Claimant Welch, Tom <i>Defendants' Demand for Jury Trial</i>

CASE SUMMARY




CASE NO. A-15-722259-C

02/01/2018	 Answer to Amended Complaint Filed By: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Defendants' Answer to Plaintiffs Second Amended Complaint and CrossClaim Against William Patrick Ray, JR</i>
02/01/2018	 Initial Appearance Fee Disclosure Filed By: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet <i>Defendants' Initial Appearance Fee Disclosure</i>
02/02/2018	 Answer to Complaint Filed by: Defendant West Coast Water Parks LLC <i>Defendant West Coast Water Parks, LLC's Answer to Second Amended Complaint</i>
02/02/2018	 Initial Appearance Fee Disclosure Filed By: Defendant West Coast Water Parks LLC <i>Initial Appearance Fee Disclosure</i>
02/02/2018	 Demand for Jury Trial Filed By: Defendant West Coast Water Parks LLC <i>Demand for Jury Trial</i>
03/02/2018	 Answer to Crossclaim Filed By: Cross Defendant Ray Jr., Willam Patrick <i>Third-Party Defendant/Cross-Defendant William Patrick Ray, Jr.'s Answer to Double OTT Water Holdings, LLC; Tom Welch; Orluff Opeikens; Slade Opeikens and Chet Opeikens' Cross-Claim</i>
03/06/2018	 Answer to Amended Complaint Filed By: Defendant Huish, Shane <i>Defendant Shane Huish's Answer to Second Amended Complaint</i>
03/06/2018	 Initial Appearance Fee Disclosure Filed By: Defendant Huish, Shane <i>IAFD</i>
03/06/2018	 Demand for Jury Trial Filed By: Defendant Huish, Shane <i>Demand for Jury Trial</i>
03/07/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Gardner, Christian <i>Summons</i>
03/23/2018	 Notice of Change of Address Filed By: Cross Defendant Ray Jr., Willam Patrick <i>Notice of Change of Firm Address</i>
03/23/2018	 Affidavit of Service Filed By: Plaintiff Gardner, Christian <i>Affidavit of Service for Shane Huish</i>
03/27/2018	 Supplement to Joint Case Conference Report

CASE SUMMARY

CASE NO. A-15-722259-C

Party: Plaintiff Gardner, Christian
Second Supplement to Joint Case Conference Report

05/08/2018	 Amended Answer <i>Defendant Shane Huish's First Amended Answer to Second Amended Complaint</i>
05/16/2018	 Amended Order Setting Jury Trial <i>Second Amended Order Setting Jury Trial</i>
05/18/2018	 Stipulation and Order <i>Stipulation and Order to Extend Discovery Dealines and to Continue Trial (Sixth Request)</i>
05/22/2018	 Notice of Entry <i>Notice of Entry of Stipulation and Order to Extend Discovery Dealines and to Continue Trial (Sixth Request)</i>
05/23/2018	 Notice Filed By: Defendant Huish, Scott; Defendant Huish, Craig <i>Notice of Counsel's Absence from Jurisdiction</i>
06/06/2018	 Affidavit of Service Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland <i>Affidavit of Service - Subpoena Duces Tecum.</i>
06/11/2018	 Motion for Protective Order Filed By: Defendant Huish, Craig <i>Defendant Craig Huish's Motion for Protective Order as to the Location of His Deposition</i>
06/18/2018	 Motion Filed By: Plaintiff Gardner, Christian <i>Motion for Leave to File Third Amended Complaint</i>
06/28/2018	 Opposition to Motion For Protective Order Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland <i>Plaintiffs' Opposition to Defendant Craig Huish's Motion for Protective Order as to the Location of His Deposition</i>
07/05/2018	 Opposition to Motion Filed By: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Defendants Orluff Opheikens, Slade Opheikens, Chet Opheikens, and Tom Welch s Opposition to Plaintiffs Motion for Leave to File Third Amended Complaint</i>
07/09/2018	 Reply in Support Filed By: Defendant Huish, Craig <i>Defendant Craig Huish's Reply in Support of Motion for Protective Order as to the Location of his Deposition</i>
07/18/2018	 Reply in Support Filed By: Plaintiff Gardner, Christian <i>Plaintiffs' Reply in Support of Motion for Leave to File Third Amended Complaint</i>
07/30/2018	 Order

CASE SUMMARY

CASE NO. A-15-722259-C

Filed By: Plaintiff Gardner, Christian
Order Granting Plaintiffs' Motion for Leave to File Third Amended Complaint

07/30/2018



Notice of Entry of Order

Filed By: Plaintiff Gardner, Christian
Notice of Entry of Order

07/30/2018



Third Amended Complaint

Filed by: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland
Third Amended Complaint

07/31/2018



Initial Appearance Fee Disclosure

Filed By: Plaintiff Gardner, Christian
Initial Appearance Fee Disclosure

08/01/2018



Summons Electronically Issued - Service Pending

Party: Plaintiff Gardner, Christian
Summons

08/08/2018



Affidavit of Service

Filed By: Plaintiff Gardner, Christian
Affidavit of Service of Summons and Third Amended Complaint to R&O Construction

08/08/2018



Answer to Amended Complaint

Defendant Shane Huish's Answer to Third Amended Complaint

08/16/2018



Answer and Crossclaim

Filed By: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orluff; Cross Claimant Opeikens, Slade; Cross Claimant Opeikens, Chet; Cross Claimant Welch, Tom
Defendants' Answer to Plaintiff's Third Amended Complaint and Crossclaim Against William Patrick Ray, Jr.

08/20/2018



Notice of Appearance

Party: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orluff; Cross Claimant Opeikens, Slade; Cross Claimant Opeikens, Chet; Cross Claimant Welch, Tom; Defendant R and O Construction Company
Notice of Appearance of Counsel

08/21/2018



Motion for Order Extending Time

Filed by: Defendant R and O Construction Company
Defendant R & O Construction, Inc. s Opposed Motion for Extension of Time to Answer or Otherwise Respond

08/22/2018



Motion

Filed By: Defendant R and O Construction Company
Defendant R&O Construction, Inc.'s Opposed Motion for Extension of Time to Answer or Otherwise Respond to September 6, 2018

08/22/2018



Initial Appearance Fee Disclosure

Filed By: Defendant R and O Construction Company
Initial Appearance Fee Disclosure












08/22/2018



Answer to Amended Complaint

CASE SUMMARY

CASE NO. A-15-722259-C

	Filed By: Defendant West Coast Water Parks LLC; Defendant Huish, Scott <i>Defendants West Coast Water Parks, LLC's and Scott Huish's Answer to Third Amended Complaint</i>
08/22/2018	 Answer to Amended Complaint Filed By: Defendant Huish, Craig <i>Defendant Craig Huish's Answer to Third Amended Complaint</i>
08/24/2018	 Answer to Amended Complaint Filed By: Third Party Plaintiff Henderson Water Park, LLC <i>Defendant Henderson Water Park, LLC's Answer to Plaintiffs' Third Amended Complaint and Third-Party Complaint</i>
08/31/2018	 Motion to Dismiss Filed By: Defendant R and O Construction Company <i>Motion to Dismiss</i>
09/04/2018	 Notice of Motion <i>Defendant R&O Construction's Notice of Motion</i>
09/11/2018	 Joinder To Motion Filed By: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Defendants Orluff Opheikens, Slade Opheikens, Chet Opheikens and Tom Welch's Comprehensive Joinder to R&O Construction, Inc's Motion to Dismiss</i>
09/17/2018	 Discovery Commissioners Report and Recommendations Filed By: Defendant Huish, Craig <i>Discovery Commissioner's Report and Recommendations</i>
09/20/2018	 Opposition to Motion to Dismiss Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland <i>Plaintiffs' Opposition to Defendant R&O Construction Company's Motion to Dismiss and the Opheikens Defendants' Joinder Thereto.</i>
10/03/2018	 Reply in Support Filed By: Defendant R and O Construction Company <i>Defendant R&O's Reply in Support of its Motion to Dismiss</i>
10/03/2018	 Motion to Associate Counsel Filed By: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Motion to Associate Out-Of State Counsel Brett Marshall Godfrey, Esq.</i>
10/03/2018	 Motion to Associate Counsel Filed By: Cross Claimant Double Ott Water Holdings LLC; Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Motion to Associate Out-Of-State Counsel Jeffrey Steven Vail, Esq.</i>
10/03/2018	 Reply to Opposition Filed by: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom <i>Defendants Orluff Opheikens, Slade Opheikens, Chet Opheikens and Tom Welch's Response to</i>

CASE SUMMARY

CASE NO. A-15-722259-C

Plaintiff's Opposition to Comprehensive Joinder to R&O Construction, Inc.'s Motion to Dismiss

10/11/2018



Notice of Appearance

Party: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom

Notice of Appearance of Counsel

10/11/2018



Notice of Appearance

Party: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom

Notice of Appearance of Counsel

10/18/2018



Motion to Extend Discovery

Filed By: Cross Claimant Opeikens, Orluff; Cross Claimant Opheikens, Slade; Cross Claimant Opheikens, Chet; Cross Claimant Welch, Tom; Defendant R and O Construction Company

Motion to Extend Discovery Deadlines (Seventh Request) and Order Shortening Time

10/23/2018



Order

Filed By: Defendant R and O Construction Company

Order Granting Defendant R&O Construction, Inc.'s Motion to Dismiss and Motions to Associate

10/24/2018



Notice of Entry of Order

Filed By: Defendant R and O Construction Company

Notice of Entry of Order Granting Defendant R & O Construction, Inc. s Motion to Dismiss and Motions to Associate

10/25/2018



Case Appeal Statement

Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland

Case Appeal Statement

10/25/2018



Notice of Appeal

Filed By: Plaintiff Gardner, Peter; Plaintiff Gardner, Christian; Subject Minor Gardner, Leland

Notice of Appeal

DISPOSITIONS

10/10/2016

Summary Judgment (Judicial Officer: Wiese, Jerry A.)

Debtors: Peter Gardner (Plaintiff), Christian Gardner (Plaintiff)

Creditors: West Coast Water Parks LLC (Defendant), Double Ott Water Holdings LLC (Defendant)

Judgment: 10/10/2016, Docketed: 10/18/2016

11/01/2016

Summary Judgment (Judicial Officer: Wiese, Jerry A.)

Debtors: Peter Gardner (Plaintiff), Christian Gardner (Plaintiff)

Creditors: West Coast Water Parks LLC (Defendant), Double Ott Water Holdings LLC (Defendant)

Judgment: 11/01/2016, Docketed: 11/08/2016

08/31/2017

Clerk's Certificate (Judicial Officer: Wiese, Jerry A.)

Debtors: Peter Gardner (Plaintiff), Christian Gardner (Plaintiff), Jennifer Bradley (Subpoena'd (Non) Party), Leland Gardner (Subject Minor), Willam Patrick Ray Jr. (Third Party Defendant)

Creditors: Henderson Water Park, LLC (Defendant, Third Party Plaintiff), National Aquatic Safety Company LLC (Defendant)

Judgment: 08/31/2017, Docketed: 09/08/2017

CASE SUMMARY

CASE NO. A-15-722259-C

Comment: Supreme Court NO 71652 - "APPEAL AFFIRMED"

10/23/2018

Order of Dismissal Without Prejudice (Judicial Officer: Wiese, Jerry A.)

Debtors: Peter Gardner (Plaintiff), Christian Gardner (Plaintiff)

Creditors: Orluff Opeikens (Defendant), Slade Opheikens (Defendant), Chet Opheikens (Defendant), Tom Welch (Defendant), R and O Construction Company (Defendant)

Judgment: 10/23/2018, Docketed: 10/24/2018

Comment: Certain Cause

HEARINGS

03/02/2016



Motion to Quash (9:30 AM) (Judicial Officer: Bulla, Bonnie)

Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition

MINUTES

CANCELED Status Check: Compliance (04/29/2016 at 11:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

Granted in Part; Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition

Journal Entry Details:

Proprietary in nature and remain confidential. Discovery Commissioner noted in the Federal case cited "LVRC Holdings LLC v. Brekka, 518 F 3d 1127" (9th Cir. 2009) that basically, there was no implied employment agreement to keep confidential secrets; and, in this case there is such an implied agreement. with the exception of compensation, in this case clearly there was intent to be able to discuss key issues of how to deal with public relations issues and maintain those conversations, and discussions confidentially. Further, facts are never privileged and the Discovery Commissioner view is it should not be part of that confidential umbrella, however, what was spoken about with the client in terms of how to handle the public relations issue (i.e., perceptions and opinions) was proprietary and intended to be confidential because it does go to the operations of the business, the marketing of the business, the public relations image of the business; but, once a decision has been made (i.e., what press releases have been released, what was talked about with the public, communications with the health department even before the releases went out) the Discovery Commissioner does not think that should be privileged. Colloquy regarding Rule 45 document production. Discovery Commissioner recommends the documents be provided a few days in advance of the deposition and parties can work together to make that happen. As to the deposition subpoena requested items, COMMISSIONER RECOMMENDED, item (#1) needs to be produced with financial information redacted; item (#2) should be factual in nature, and mental impressions, strategy and opinions are to be redacted; item (#3) is not protected; item (#4) is not protected; item (#5) should be factual in nature, and mental impressions, strategies and opinions are to be redacted; item (#6) not protected; item (#7) not protected, drafts are protected; item (#8) not protected, drafts are protected; item (#9) not protected, drafts are protected; item (#10) not protected; item (#11) not protected; item (#12) any internal conversations are protected; item (#13) any internal conversations are protected; item (#14) timesheets, billing and financials are Protected; item (#15) timesheets, billing statements and financials are Protected; and, Plaintiffs' rights are Reserved to pursue information that may be deemed necessary in the future. Discovery Commissioner clarified the information is being deemed protected, not privileged. Colloquy. Discovery Commissioner recommended if during the deposition a party wishes to assert a privilege, follow 'coyote springs' because this involves confidential information. COMMISSIONER RECOMMENDED, Subpoenaed Non-Party Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition is GRANTED In Part and DENIED In Part. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations. 04/29/16 11:00 a.m. Status Check: Compliance - Report and Recommendations;

SCHEDULED HEARINGS

CANCELED Status Check: Compliance (04/29/2016 at 11:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

03/18/2016

CASE SUMMARY

CASE NO. A-15-722259-C



Motion to Compel (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

Pltts' Motion to Compel Deft Henderson Water Park, LLC's Responses to Plaintiffs' First Set of Requests for Production and OST

Granted in Part; Pltts' Motion to Compel Deft Henderson Water Park, LLC's Responses to Plaintiffs' First Set of Requests for Production and OST

Journal Entry Details:

Judge Gonzalez as acting Discovery Commissioner. Argument by Mr. Campbell re: drowning accident of a child at the water park, and counsel addressed the child's catastrophic injuries. The water park opened 2014, and the accident occurred the second year. Arguments by Mr. Campbell and Mr. Eisinger. Colloquy re: in addition to Henderson and Southern Nevada Health District there was an Internal Investigation that culminated in the Incident Report (already produced). Mr. Eisinger requested an opportunity to brief financial issues. Arguments by counsel. COURT RECOMMENDED, motion is GRANTED IN PART; on Requests for Production 1 through 34, OBJECTIONS ARE WAIVED except for objections based on Attorney / client privilege or Attorney work product privilege; for privileges made, counsel may submit a privilege log for review by Pltf's counsel, and to determine if counsel can work out a good faith resolution on documents where privilege is claimed. COURT RECOMMENDED, on RFP 35 and 36, SCOPE is NARROWED to meetings related to life guard or other safety operations at the premises during the relevant timeframe; Court WILL NOT address any financial or control discovery issues UNTIL AFTER Mr. Eisinger has an opportunity to address punitive damages issues with the Trial Judge (by Motion); HOWEVER, if it isn't done within the next 60 days, Mr. Campbell can ask the Discovery Commissioner to Recommend Deft respond. COURT RECOMMENDED, if additional documents are produced after depositions are concluded, counsel may re-take depositions on new issues, however, Court will not make a determination on assessment related to expenses at this time. COURT RECOMMENDED, Deft has 30 days to prepare a privilege log on RFP 1 through 34; try to resolve issues, or file a supplemental Motion; attorneys fees are GRANTED, but fees will be determined by Commissioner Bulla based on supporting documentation. Upon Mr. Eisinger's inquiry, Mr. Campbell confirmed the depositions are moving forward. Mr. Campbell to prepare the Report and Recommendations, and Mr. Eisinger to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Campbell to appear at status check hearing to report on the Report and Recommendations. 4/29/16 11:00 a.m. Status Check: Compliance;

04/20/2016



Motion to Compel (9:30 AM) (Judicial Officer: Bulla, Bonnie)

Pltfs' Motion to Compel

Granted; Pltfs' Motion to Compel

Journal Entry Details:

Commissioner advised counsel disputes from March 18, 2016 must be discussed with Judge Gonzalez to clarify the Recommendation. COMMISSIONER RECOMMENDED, Pltf has until April 27, 2016 to file an Objection to the March 2, 2016 hearing. However, if the Judge has signed the Report and Recommendations from the hearing, then he may require the Plaintiffs to file a Motion to Reconsider instead of hearing the Objection. Argument by Mr. Campbell re: history of the case, and Pltfs' extraordinary financial devastation; argument in support of the Motion. Colloquy re: clarification on the March 2, 2016 hearing related to Jennifer Bradley, and communications which arose as a result of event at Cowabunga Bay Water Park. Commissioner previously addressed the distinction between attorney work product versus confidential information. Commissioner does not have emails or text messages. COMMISSIONER RECOMMENDED, include in Report and Recommendation the CAVEAT that if the Judge did find any type of confidentiality or privilege was waived on March 18, 2016, then everything must be disclosed. Argument by Mr. Campbell. COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; from In Camera Review (Page 70) produce JB 70; JB 89 and 90 are PROTECTED; JB 91 and 92 - produce if part of her file; JB 93 and 94 are PROTECTED; JB 95 production as discussed in Open Court; JB 96 is PROTECTED; produce JB 97 and 98, JB 99 - produce in part; produce JB 100 and 101; produce again with JB production; JB 102 is PROTECTED; produce JB 103, 104, and 106; JB 105 is PROTECTED; JB 107 - produce with redactions as discussed; produce JB 108; Defts need to check on emails and texts within the guidelines discussed, and produce them; production was not appropriate, it wasn't done correctly, and Commissioner's Recommendation was not followed. Argument by Mr. Eisinger. COMMISSIONER RECOMMENDED, produce texts and emails to Commissioner for in camera review; counsel will produce the material by 4/29/16; if Commissioner sees another similar production from Defts, Commissioner will Recommend a four figure sanction against Defts. Mr. Campbell to prepare the Report and Recommendations, and Mr. Eisinger to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise,

CASE SUMMARY

CASE NO. A-15-722259-C

counsel will pay a contribution. Mr. Campbell to appear at status check hearing to report on the Report and Recommendations. 5/27/16 11:00 a.m. Status Check: Compliance CLERK'S NOTE: Minutes amended 4/29/16 to reflect Commissioner's intent. JL CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Donald Campbell / Samuel Mirkovich Paul Eisinger / Alexandra McLeod;

04/21/2016

Telephonic Conference (2:45 PM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

Mr. Campbell present in the courtroom. Mr. Campbell present in the courtroom. Court understands there is a dispute on the Report and Recommendation and parties were referred by the Discovery Commissioner for clarification. Court acknowledged receipt of the proposed Report and Recommendation sent over by Mr. Eisinger; copy printed for Mr. Campbell. Mr. Eisinger explained the language inserted in the proposed order, noting page 49 of the transcript of the March 18th hearing. Mr. Mirkovich referred the Court to page 46, line 21. Court confirmed it had waived the objections that were, as Mr. Eisinger had stated, vague, ambiguous, overbroad, and compound, as they were identified in the answers. Mr. Eisinger advised that is what he had put in his proposed order, but opposing counsel's language indicates all objections are waived. Court clarified, counsel had made 4 specific objections in his response; the Court determined those objections were waived; that means counsel cannot make any more, but the Court preserved the attorney-client and attorney work product ability to object. Ms. McLeod referred the Court to RFP no. 26, noting this one is based on confidentiality and not privilege. Court noted it had overruled all the objections to that particular one; Court understands counsel thinks those are confidential, but the Court does not believe a confidentiality clause by one of Defendant's representatives will preclude production of the information; counsel may submit an order requiring that be produced. Mr. Eisinger further argued Commissioner Bulla ruled in the Defendants favor before parties came before this Court and there was no objection by the Plaintiff; an extension was later obtained for Plaintiff to do an objection to Judge Wiese; yesterday, Commissioner Bulla reaffirmed her position on the confidentiality of those documents; they have done a privilege log; he also does not recall any discussion with this Court on RFP no. 26. Court noted the request relates to lifeguard training, the subject incident, and/or staffing. Mr. Eisinger explained the distinction with Commissioner Bulla's ruling is that those types of communications between the Defendant and Ms. Bradley, their publicist, are privileged. Court NOTED, it had previously made the determination in the CityCenter case regarding Sitrick & Bunting that the PR people who are available to assist were not privileged; a writ went up to the Supreme Court, and a writ did not issue from them; the request here relates to the subject incident, lifeguard training, and/or staffing, and they are relevant to the inquiry, which in this particular incident is narrowly tailored. Mr. Campbell noted for the record that the matter which Commissioner Bulla handled was a subpoena served on Ms. Bradley asking for all of her files; this is an RFP served on a party, specifically Cowabunga Bay; the RFP's were outstanding for months, and even though extensions were granted, opposing counsel still refused to answer. Court advised the Report and Recommendation sent over by Campbell Williams has been signed and given back to Mr. Campbell.;

04/29/2016

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)
Vacated - per Commissioner

04/29/2016

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)
Vacated

05/24/2016

Objection to Discovery Commissioner's Report (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiff's Objection to Discovery Commissioner's Report

Matter Heard;

Journal Entry Details:

Mr. Mirkovich argued that there were inadequate life guards at the wave pool at the time of the incident. Mr. Eisinger submitted on the briefs. COURT ORDERED, Decision AFFIRMED. Mr. Eisinger to prepare the order.;


05/27/2016

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)
Vacated - per Commissioner

CASE SUMMARY

CASE NO. A-15-722259-C

06/16/2016

 **Motion for Leave** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs' Motion for Leave to File Amended Complaint.

See LSF Fax 6/7/16

Matter Heard;

Journal Entry Details:

The above-referenced matter came on for hearing before Judge Jerry Wiese on Thursday, June 16, 2016, with regard to Plaintiff's Motion for Leave to File Amended Complaint. Plaintiff seeks to add various individuals, who make up the Defendant's Management Committee, as Defendants. Plaintiff argues that LLC protection applies to contractual claims, but not necessarily tort claims, and the claims that Plaintiff wants to assert against these new Defendants are strictly tort claims. Further, Plaintiff argues that the alter-ego doctrine should be applied to LLCs, based in part on the case of In re Giampetro, 317 B.R. 841, 845 (Bankr.D.Nev. 2004). In that case, the Bankruptcy Court believed it would be highly likely that the Nevada Courts would extend the alter ego doctrine to members of LLCs. This Court finds that the Nevada Revised Statutes protect members of an LLC, not only from debts incurred by an LLC, but also liabilities incurred by the LLC. NRS 86.371 indicates that . . . no member or manager of any limited-liability company formed under the laws of this State is individually liable for the debts or liabilities of the company. (emphasis added). Further, although the Nevada corporation statutes include an alter ego exception to the corporate protections, the LLC statutes do not contain a similar exception, creating a negative inference that the Nevada legislature did not intend for it to apply to LLCs. (Suing the Man Behind the Curtain: Can Nevada LLC Members be Liable Under the Alter Ego Doctrine? by Ryan Lower, Esq., Nevada Lawyer, November, 2014, pg. 16, citing to Dep't of Taxation v. DaimlerChrysler, 121 Nev. 541, 548, 119 P.3d 135, 139 [2005]). This Court concludes that the requested amendment and inclusion of the individuals who make up the Defendant's Management Committee would be futile, as such individuals are improper Defendants. Consequently, the Motion for Leave to Amend is hereby DENIED without prejudice. Defense counsel is to prepare an Order consistent with the foregoing, have it approved as to form and content by all counsel, and submit it to the Court within 10 days. ;

06/23/2016

CANCELED Motion to Quash (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated

Water Park Defendants' Motion to Quash Subpoenas to Non-Parties


06/23/2016

CANCELED Motion to Quash (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated

Water Park Defendants' Motion to Quash Subpoenas to Non-Parties

08/26/2016

 **Motion for Protective Order** (9:00 AM) (Judicial Officer: Bulla, Bonnie)


Water Park Defts' Motion for Protective Order Regarding Site Inspection on OST

Granted in Part; Water Park Defts' Motion for Protective Order Regarding Site Inspection on OST

Journal Entry Details:

COMMISSIONER RECOMMENDED, start inspection one hour earlier, and Pltf's counsel can videotape the park during that one hour, but counsel are Not Allowed to go inside interior buildings; do not capture employees on video as discussed; video testing of wave pool is PROTECTED within the confines of litigation until otherwise ordered by the District Court Judge. Colloquy re: Wilson versus Walmart stores. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Commissioner advised Pltf's counsel 1) do not try the case in the press, 2) if information ends up on the Internet, the Judge or Commissioner will address it, and 3) no videotaping in the park when open for business. Mr. Mirkovich to prepare the Report and Recommendations, and Mr. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations. 10/7/16 11:00 a.m. Status Check: Compliance;

09/06/2016

 **Motion For Reconsideration** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs' Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations or in the Alternative, for Order Setting Ribeiro Hearing

Matter Heard;

Journal Entry Details:

Plaintiffs' Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations or in the Alternative, for Order Setting Ribeiro Hearing At

CASE SUMMARY**CASE NO. A-15-722259-C**

the request of Mr. Mirkovich and there being no objection. COURT ORDERED, matter CONTINUED for Chambers Calendar for the Court to further review the pleadings and issue a decision. CONTINUED.....9/23/16;

09/09/2016



Minute Order (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs Motion for Reconsideration of Order Affirming Discovery Commissioner s March 2, 2016 Report

Minute Order - No Hearing Held;

Journal Entry Details:

The above-referenced matter came on for hearing before Judge Jerry A. Wiese II, on Tuesday, September 6, 2016, with regard to Plaintiffs Motion for Reconsideration of Order Affirming Discovery Commissioner s March 2, 2016 Report and Recommendations, or in the Alternative, for Order Setting Ribeiro Hearing. The parties were represented by counsel, and after reviewing all relevant pleadings and papers, the Court heard oral argument, and then reserved ruling. The Court now enters its ruling and finds and concludes the following: As a brief summary, Discovery Commissioner Bulla entered a Report and Recommendation following a March 2, 2016, hearing, with regard to a Motion to Quash and Motion for Protective Order. Commissioner Bulla recommended in detail exactly what information was discoverable and what information was not discoverable. Subsequently, on March 18, 2016, Judge Gonzalez, (as Acting Discovery Commissioner), heard argument with regard to a Motion to Compel, and Judge Gonzalez recommended that Defendant s objections to Plaintiffs Requests for Production were waived. On March 24, 2016, this Court held a hearing with regard to Plaintiff s Objection to the Discovery Commissioner s March 2, 2016, Report and Recommendation. This Court concluded that Commissioner Bulla analyzed the specific discovery dispute and came to a reasoned and rational decision. The Court further found that Acting Discovery Commissioner Gonzalez improperly sanctioned the Defendants by recommending that their objections to Requests for Production were waived, without a Ribeiro hearing. (Young v. Johnny Ribeiro, 106 Nev. 88, 787 P.2d 777 [1990]). The Plaintiff now argues that the Court erred in ruling that Acting Discovery Commissioner s March 2, 2016, ruling was improper without a Ribeiro hearing. Plaintiffs argue that the Court should reconsider its prior decision, or in the alternative, schedule a Ribeiro hearing. Having considered all of the papers and pleadings on file, and the oral arguments of counsel, this Court concludes that it did err in concluding that Acting Discovery Commissioner Gonzalez erred in failing to conduct a Ribeiro hearing. In fact, this Court agrees with Plaintiffs that a Ribeiro hearing is only required when the Court imposes a case-terminating sanction pursuant to NRCP 37. Because Acting Discovery Commissioner Gonzalez did not issue a case terminating sanction, but instead issued a sanction consisting of a waiver of discovery objections, a Ribeiro Hearing was not required. The Court notes that although NRCP 33 includes a waiver clause, (Any ground not stated in a timely objection is waived unless the party s failure to object is excused by the court for good cause shown NRCP 33[b][4]), NRCP 34 does not include a similar clause, and consequently, there is no mandatory waiver pursuant to NRCP 34. NRCP 34 indicates that The party upon whom the request is served shall serve a written response within 30 days after the service of the request. A shorter or longer time may be directed by the court. . . . (NRCP 34 [b]). When Acting Discovery Commissioner Gonzalez entered her Report and Recommendation, following the March 18, 2016, hearing, she impliedly overruled Discovery Commissioner Bulla s Report and Recommendation following the March 2, 2016, hearing. Such action was improper because Discovery Commissioners are not to overrule each other. This Court finds and concludes that Discovery Commissioner Bulla s Report and Recommendation following the March 2, 2016, hearing, was well reasoned, was based on substantial evidence, and was not an abuse of her discretion. The Court finds that Acting Discovery Commissioner Gonzalez s subsequent Report and Recommendation which impliedly overruled Commissioner Bulla s Report and Recommendation was improper, and an abuse of her discretion (as an Acting Discovery Commissioner). Consequently, this Court affirms Commissioner Bulla s Report following the March 2, 2016, hearing, and the findings and recommendations set forth at the March 2, 2016, hearing, and reiterated on April 20, 2016, are affirmed and adopted. Acting Discovery Commissioner Gonzalez s Report and Recommendation following the March 18, 2016 hearing, to the extent inconsistent with Commissioner Bulla s decisions, is hereby rejected or overruled. Based upon the foregoing, this Court hereby DENIES the Plaintiffs Motion for Reconsideration, as well as the alternative request for a Ribeiro hearing. The Court does, however, modify the basis for its denial, consistent with the rationale set forth in this Minute Order. If the Plaintiffs seek a sanction against the Defendant for its alleged untimely responses to Requests for Production, pursuant to NRCP 34, and/or NRCP 37, a Motion should be filed with Discovery Commissioner Bulla, as she would potentially be able to modify her own previous Report and Recommendation if she believes such modification would be appropriate. Defense counsel is to prepare an Order consistent with this Minute Order, submit it to opposing counsel for approval as to form and

CASE SUMMARY

CASE NO. A-15-722259-C

content, and then submit it to this Court within 10 days for signature. ;

09/13/2016



Motion for Summary Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Defendant's Motion for Summary Judgment as to Claims Against Defendants West Coast and Double OTT

Granted;

Journal Entry Details:

Defendant's Motion for Summary Judgment as to Claims Against Defendants West Coast and Double OTT Following arguments regarding liability of cooperate officers and individual management members. Court finds the statute clear and unambiguous. COURT ORDERED, motion GRANTED. Mr. Eisinger to prepare the order.;

09/16/2016



Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Plaintiffs' Motion to Compel Production of Documents.

Granted; Plaintiffs' Motion to Compel Production of Documents.

Journal Entry Details:

Commissioner stated subsequent remedial measures are discoverable. Colloquy. Arguments by counsel. COMMISSIONER RECOMMENDED, one email CB4961 through CB4962 must be submitted to Commissioner for IN CAMERA review (provide redacted and unredacted Pages). Colloquy re: preparing a privilege log. Pages provided from Ms. McLeod in Open Court. Date of injury was May 27, 2015. Document submitted to Commissioner in Open Court, and document WILL BE MAINTAINED by Commissioner (until determined at a later date). COMMISSIONER RECOMMENDED, produce Pages 4961 and 4962 in a redacted form. Ms. McLeod requested a stay to produce documents. Upon Commissioner's inquiry, COMMISSIONER RECOMMENDED, Ms. McLeod's request for 2.34(e) relief is GRANTED. Colloquy re: disclosing factual issues. Arguments by counsel. Commissioner will entertain a Motion for Protective Order when it is properly brought. COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; Requests for Production First set - answer RFP 36 through 49, and redacted documents must be unredacted and produced; RFP 48 - Commissioner will not re-visit issue, it was already protected, but produce everything else in unredacted form; Second set RFP - answer 57 through 63; Third parties discussed, if true privilege exists, prepare a privilege log, cite specific statutes, provide to Plt's counsel, and have a 2.34 conference. Mr. Mirkovich requested to waive objections. Commissioner will Not Waive work product or attorney-client privileges. COMMISSIONER RECOMMENDED, go through the present time and ensure everything was disclosed; factual information from 2014 start date to present time (dealing with park safety all emails, letters, documents); Respond to 66 through 75 as discussed. Colloquy re: relevance. COMMISSIONER RECOMMENDED, answer RFP 80 through 85, but 83 was already addressed by separate Motion. Ms. McLeod requested three weeks to produce information If Commissioner sees similar redactions from Deft, Commissioner will sanction Deft and probably counsel. COMMISSIONER RECOMMENDED, produce information within 30 days, or within five days after Court signs the Report and Recommendation. Mr. Mirkovich requested attorney fees and costs. COMMISSIONER RECOMMENDED, prepare a Motion for Memorandum of Fees, apply the Brunzell factors, and Deft can challenge the Memorandum; Status Check SET. Mr. Mirkovich requested clarification from Commissioner Bulla's prior Recommendations. Ms. McLeod is attempting to clarify Waiver issues. Commissioner advised counsel to clarify issues with Judge Wiese. Commissioner DEFERRED to Judge Wiese on the Waiver. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations. 10/14/16 9:00 a.m. Status Check: Memorandum of Fees.....SC: Compliance;

09/23/2016

CANCELED Decision (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - per Order

10/07/2016

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

10/14/2016

Status Check: Compliance (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Matter Heard;

10/14/2016

Status Check (9:00 AM) (Judicial Officer: Bulla, Bonnie)

CASE SUMMARY

CASE NO. A-15-722259-C

Status Check: Memorandum of Fees

Matter Heard;

10/14/2016



All Pending Motions (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Matter Heard;

Journal Entry Details:

STATUS CHECK: COMPLIANCE...STATUS CHECK: MEMORANDUM OF FEES

Commissioner advised she recently reviewed the application and objection, and she needed the report and recommendations prepared on the attorneys fees. Ms. McLeod submitted on the briefings. COMMISSIONER RECOMMENDED, attorneys fees in the amount of \$ 9,290.00 GRANTED; full amount due within 30 days, after the report and recommendations were signed by the judge. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations. 11/18/2016 - 11:00 AM - STATUS CHECK: COMPLIANCE (R&R);

10/20/2016



Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs' Motion for NRCP 54(b) Certification of Order Granting Defendants' Motion for Summary Judgment as to Claims Against West Coast and Double Ott and Order Shortening Time

Granted;

Journal Entry Details:

Following arguments by counsel, COURT ORDERED, Plaintiffs' Motion for NRCP 54(b) Certification of Order Granting Defendants' Motion for Summary Judgment as to Claims Against West Coast and Double Ott, GRANTED. Mr. Mirkovich to prepare the order.;

10/25/2016



Motion for Leave (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs' Motion for Leave to File Amended Complaint

Granted;

Journal Entry Details:

Plaintiffs' Motion for Leave to File Amended Complaint Mr. Mirkovich requested to amend the Complaint to bring in the parents and additional defendant. Limited opposition by Ms. McLeod. COURT ORDERED, motion GRANTED.;

11/17/2016



Objection to Discovery Commissioner's Report (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Defendant's Objection to Discovery Recommendations

Appeal Affirmed;

Journal Entry Details:

Following arguments by counsel. COURT ORDERED, decision AFFIRMED; Attorney fees AFFIRMED. Court advised Ms. McLeod to file a Motion for Protective Order if necessary.;

11/18/2016

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

12/05/2016

CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - per Commissioner

12/27/2016

CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - per Commissioner

01/03/2017

CANCELED Jury Trial (1:30 PM) (Judicial Officer: Wiese, Jerry A.)

Vacated - per Commissioner

01/26/2017



Objection to Discovery Commissioner's Report (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Discovery Commissioner's Report and Recommendation




Moot;

Journal Entry Details:

CASE SUMMARY

CASE NO. A-15-722259-C

Counsel indicated the matter was moot as the fees had been paid. COURT ORDERED, OFF CALENDAR.;

02/13/2017	CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - per Stipulation and Order</i>
03/06/2017	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - per Stipulation and Order</i>
03/13/2017	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - per Stipulation and Order</i>
03/28/2017	 Motion for Determination of Good Faith Settlement (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant National Aquatic Safety Company, LLC's Motion for Good Faith Settlement Determination</i> Granted; Journal Entry Details: <i>Defendant National Aquatic Safety Company, LLC's Motion for Good Faith Settlement Determination Argument by Mr. Peak regarding the policy, how attorney fees are taken out, and policy limits in place. Opposition by Ms. McLeod and request for Mr. Peak to produce the policy. Objection by Mr. Peak. Court considered MGM, Velsicol, and Doctors Company factors. COURT ORDERED, motion GRANTED. Mr. Mirkovich to prepare the order.;</i>
05/19/2017	 Motion for Protective Order (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Defendant, Cowabunga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on OST</i> Granted in Part; Defendant, Cowabunga Bay's Motion for Protective Order Regarding NRCP 30(b)(6) Deposition on OST Journal Entry Details: <i>COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Topic 8 is PROTECTED, but Topics 1 through 7 are allowed. Arguments by counsel. Mr. Mirkovich will exclude Topic 8, however, time for deposition depends on who Deft produces. If there are multiple servers or depending on the technology, contact Commissioner by conference call if necessary. No fees or costs. Mr. Mirkovich to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;</i>
06/14/2017	 Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Plaintiffs' Motion to Compel Production of Documents from Defendant Cowabunga Bay</i> Granted in Part; Plaintiffs' Motion to Compel Production of Documents from Defendant Cowabunga Bay Journal Entry Details: <i>Trial date was moved and added to Odyssey (6-25-18 Trial date). Email at issue is from Tom Welch dated 7-31-15, a series of emails dealing with ownership and business issues, and an email between the Huish Brothers dated 12-1-15. Arguments by counsel. Ms. McLeod offered to communicate with her clients, and supplement facts that are not present in the Declaration. Commissioner would feel uncomfortable asking Ms. McLeod to do that. Mr. Mirkovich would be very uncomfortable with that as well. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Commissioner REQUIRED documents CB012976 and CB012977 turned over, and Commissioner Finds the attorney-client privilege does not protect those two Pages in light of the status of Mr. Welch; Commissioner gave Defs 2.34(e), and the Pages will not be turned over until 10 business days after Court signs recommendation. Arguments by counsel re: Hulish communications. COMMISSIONER RECOMMENDED, Commissioner Finds documents CB018303, CB018304, and CB022166 are PROTECTED under NRCP 26(c); CB024138 is NOT PROTECTED, and is relevant; produce CB024138 with 2.34(e) relief within 10 days after Court signs recommendation. Mr. Mirkovich stated a matter is pending before the Nevada Supreme Court on this case, and counsel sought to bring in individual management committee members as Defs in their individual capacity, and scope of discovery may change based on that Ruling. COMMISSIONER RECOMMENDED, Huish emails are PROTECTED WITHOUT PREJUDICE at this time; no fees or costs. Commissioner will hold onto the in camera; after Report and Recommendation is finalized by the District Court Judge, the in</i>

CASE SUMMARY

CASE NO. A-15-722259-C

camera will be maintained as privileged in the Evidence Vault. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. ;

07/13/2017



Motion for Order (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Plaintiffs' Motion for Order Shortening Time for Expedited Hearing of Plaintiffs' Petition to Distribute Partial Settlement Proceeds to Plaintiffs Peter and Christian Gardner

Continued;

per counsel request

Journal Entry Details:

Plaintiffs' Motion for Order Shortening Time for Expedited Hearing of Plaintiffs' Petition to Distribute Partial Settlement Proceeds to Plaintiffs Peter and Christian Gardner Following a conference at the Bench. COURT ORDERED, motion CONTINUED 7/20/17 9:00am.;

07/20/2017

CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

08/03/2017

CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

08/10/2017



Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Discovery Commissioner's Report

Denied;

Journal Entry Details:

Arguments by Ms. McLeod regarding emails that were not discoverable by Tom Welch as they were attorney client privileged. Mr. Mirkovich argued Tom Welch's inactivity of practicing as an attorney therefore they were discoverable. Court did not find an abuse of discretion or clear error by the Discovery Commissioner. COURT ORDERED, decision AFFIRMED; motion DENIED. Mr. Mirkovich to prepare the order.;

08/29/2017



Motion For Stay (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

08/29/2017, 09/19/2017

Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time

MINUTES



Status Check (12/19/2017 at 9:00 AM) (Judicial Officer: Wiese, Jerry A.)

12/19/2017, 01/16/2018, 03/20/2018

Status Check Re:P Court's Order Granting Defendant's Motion for Stay of Order

Continued;

Granted;

Journal Entry Details:

Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time Mr. Mirkovich objected to the stay as he was concerned the ruling from the Supreme court would be after the trial commenced. Ms. McCleod argued for a stay pending the 2nd Writ filed regarding the discovery issue of privileged e-mail. COURT ORDERED, motion GRANTED; Case stayed pending the Order at issue only. Matter set for status check regarding the Writ 12/19/17 9:00am.;

Continued;

Granted;

Journal Entry Details:

Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time Colloquy between Court and counsel regarding filing a Writ of Petition first or staying a specific order or the whole case. COURT ORDERED, motion CONTINUED for the Writ to be filed first. CONTINUED....9/19/17 9:00AM.;

SCHEDULED HEARINGS



Status Check (12/19/2017 at 9:00 AM) (Judicial Officer: Wiese, Jerry A.)

CASE SUMMARY

CASE NO. A-15-722259-C

12/19/2017, 01/16/2018, 03/20/2018

Status Check Re:P Court's Order Granting Defendant's Motion for Stay of Order

12/19/2017



Status Check (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

12/19/2017, 01/16/2018, 03/20/2018

Status Check Re:P Court's Order Granting Defendant's Motion for Stay of Order

Continued;

Matter Continued; Status Check Re: Court's Order Granting Defendant's Motion for Stay of Order

Vacate - Moot;

Journal Entry Details:

Ms. Franco advised Co-Defendant Cowabunga Bay submitted a letter to the Court's chambers yesterday requesting the hearing be vacated. Further, the Supreme Court came down with a decision. COURT ORDERED, matter VACATED as MOOT.;

Continued;

Matter Continued; Status Check Re: Court's Order Granting Defendant's Motion for Stay of Order

Vacate - Moot;

Journal Entry Details:

Mr. Eisinger requested to keep the stay in place, noting parties are awaiting a decision from the Nevada Supreme Court, adding there is no prejudice to either side. COURT ORDERED, stay CONTINUED; matter CONTINUED. CONTINUED TO: 3/20/18 9:00 A.M.;

Continued;

Matter Continued; Status Check Re: Court's Order Granting Defendant's Motion for Stay of Order

Vacate - Moot;

Journal Entry Details:

Mr. Eisinger stated they were waiting on a decision from the Supreme Court regarding the attorney client privilege and production of documents. Furthermore, there were seven more parties going to be added to the case. Mr. Mirkovich objected to the stay. COURT ORDERED, stay CONTINUED 1/16/18 9:00am. Court instructed counsel to produce the documents within five days of the Supreme Court's decision if applicable.;

06/11/2018

CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - Superseding Order

06/18/2018

CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - Superseding Order

06/25/2018

CANCELED Jury Trial (10:30 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - Superseding Order

07/20/2018



Motion for Protective Order (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Defendant Craig Huish's Motion for Protective Order as to the Location of his Deposition

see fax dated 6/28/18

Granted; Defendant Craig Huish's Motion for Protective Order as to the Location of his Deposition

Journal Entry Details:

Colloquy re: Okada factors; Craig Huish is an Accountant and he is concerned about leaving his practice. Upon Commissioner's inquiry, Mr. Mirkovich stated Plaintiff will not take a video deposition; argument by counsel. COMMISSIONER RECOMMENDED, motion is GRANTED; take the deposition in the State of Washington and arrange for video conference for counsel to appear or others can be present by video conference; Defs will bear costs of video conferencing. Mr. Mirkovich requested the deposition be taken downtown in proximity of the airport. COMMISSIONER SO RECOMMENDED. If there are problems, contact Commissioner by conference call. Ms. Mastrangelo to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;

07/25/2018



Motion for Leave (9:00 AM) (Judicial Officer: Wiese, Jerry A.)


Plaintiff's Motion for Leave to File Third Amended Complaint

Motion Granted;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-722259-C

	<p>Journal Entry Details: <i>Colby Williams, Esq., also present on behalf of Plaintiff. Mr. Williams advised the Motion for Leave to File Third Amended Complaint was requesting to name R&O Construction as a Defendant and to amplify on allegations based on recent discoveries conducted. Mr. Williams was informed of the Court's inclination and submitted to the Motion. Argument by Mr. Corrick. COURT ORDERED, Motion GRANTED.;</i></p>
09/20/2018	<p>CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i></p>
09/26/2018	<p>CANCELED Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Moot</i> <i>Defendant R&O Construction, Inc.'s Opposed Motion for Extension of Time to Answer or Otherwise Respond to September 6, 2018</i></p>
10/10/2018	<p>Motion to Dismiss (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant R&O Construction's Notice of Motion</i> Motion Granted;</p>
10/10/2018	<p>Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendants Orluff Opheikens, Slade Opheikens, Chet Opheikens and Tom Welch's Comprehensive Joinder to R&O Construction, Inc's Motion to Dismiss</i> Motion Granted;</p>
10/10/2018	<p> All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.) Matter Heard; Journal Entry Details: <i>Brett Godfrey, Esq., and Jeffrey Vail, Esq., present on behalf of Defendant, R and O Construction Company. Dawn Davis, Esq., also present on behalf of Defendant, West Coast Water Parks LLC. Mr. Godfrey advised there were pending Motions to Associate set for November 7th. There being no opposition by Counsel, COURT ORDERED, Motions to Associate GRANTED. Mr. Vail argued there was an alter ego issue, and stated the Supreme Court's rulings. Mr. Corrick argued the issue was whether or not Nevada law allowed reverse pierce in a non-post-judgment context. Following arguments by Mr. Williams, Court FINDS, there aren't any allegations in the case that R and O did anything individually wrong, that there is any liability on their part for any actions done on anybody's part for R and O. Additionally, having a defendant who is only there as a means of collection confuses a jury because they can't find any liability against them, and it makes more sense to be a post-judgment process and a post-judgment party. Furthermore, there isn't any manifest injustice by precluding them from being a party at this time, and ORDERED, Motion to Dismiss GRANTED WITHOUT PREJUDICE. Court ADVISED, R and O Construction can be brought back in at the end of the trial if there isn't a way to collect, and FURTHER ORDERED 54(b) certification GRANTED.;</i></p>
11/02/2018	<p>Motion to Extend Discovery (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Motion to Extend Discovery Deadlines</i></p>
11/07/2018	<p>CANCELED Motion to Associate Counsel (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Moot</i> <i>Motion to Associate Out-Of State Counsel Brett Marshall Godfrey, Esq.</i></p>
11/07/2018	<p>CANCELED Motion to Associate Counsel (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Moot</i> <i>Motion to Associate Out-Of-State Counsel Jeffrey Steven Vail, Esq.</i></p>
08/05/2019	<p>Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p>
08/26/2019	<p>Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p>
09/03/2019	<p>Jury Trial (10:30 AM) (Judicial Officer: Wiese, Jerry A.)</p>
DATE	FINANCIAL INFORMATION

CASE SUMMARY**CASE NO. A-15-722259-C**

Defendant Cowabunga Bay Water Park	
Total Charges	0.00
Total Payments and Credits	0.00
Balance Due as of 10/30/2018	0.00
 Defendant Double Ott Water Holdings LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 10/30/2018	0.00
 Defendant National Aquatic Safety Company LLC	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 10/30/2018	0.00
 Defendant West Coast Water Parks LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 10/30/2018	0.00
 Third Party Plaintiff Henderson Water Park, LLC	
Total Charges	781.00
Total Payments and Credits	781.00
Balance Due as of 10/30/2018	0.00
 Defendant Huish, Scott	
Total Charges	446.00
Total Payments and Credits	446.00
Balance Due as of 10/30/2018	0.00
 Defendant Huish, Shane	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 10/30/2018	0.00
 Defendant R and O Construction Company	
Total Charges	446.00
Total Payments and Credits	446.00
Balance Due as of 10/30/2018	0.00
 Cross Claimant Welch, Tom	
Total Charges	313.00
Total Payments and Credits	313.00
Balance Due as of 10/30/2018	0.00
 Defendant West Coast Water Parks LLC	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 10/30/2018	0.00
 Plaintiff Gardner, Christian	
Total Charges	54.00
Total Payments and Credits	54.00
Balance Due as of 10/30/2018	0.00
 Plaintiff Gardner, Peter	
Total Charges	311.00
Total Payments and Credits	311.00
Balance Due as of 10/30/2018	0.00
 Subject Minor Gardner, Leland	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 10/30/2018	0.00

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-722259-C

Cross Defendant Ray Jr., Willam Patrick

Total Charges

223.00

Total Payments and Credits

223.00

Balance Due as of 10/30/2018

0.00

Plaintiff Gardner, Peter

Appeal Bond Balance as of 10/30/2018

500.00

DISTRICT COURT CIVIL COVER SHEET

A-15-722259-C

County, Nevada

Case No.

(Assigned by Clerk's Office)

XXX

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
PETER and CHRISTIAN GARDNER on behalf of minor child,	HENDERSON WATER PARK, LLC dba COWABUNGA
LELAND GARDNER	BAY WATER PARK; WEST COAST WATER PARKS, LLC;
	DOUBLE OTT WATER HOLDING, LLC
Attorney (name/address/phone):	Attorney (name/address/phone):
Donald J. Campbell, Esq. and Samuel R. Mirkovich, Esq.	
Campbell & Williams-700 S. 7th Street, Las Vegas, Nevada, 89101	
(702) 382-5222 phone	

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

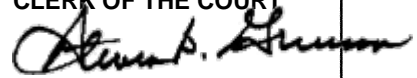
Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input checked="" type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <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
Probate <i>(select case type and estate value)</i> <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 Estate Value <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	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <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	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <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.

7/28/15
Date

Signature of initiating party or representative

See other side for family-related case filings.



ORDR

John E. Gormley, Esq.
Nevada Bar No. 001611
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702-384-4012
Facsimile: 702-383-0701

Karen Porter
Nevada Bar No. 13099
Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
GODFREY | JOHNSON
9557 S. Kingston Court
Englewood, Colorado 80112
Telephone: 303-228-0700
Facsimile: 303-228-0701

Attorneys for Defendants
R&O CONSTRUCTION,
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PETER GARDNER and CHRISTIAN
GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

Plaintiffs,

vs.

HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**ORDER GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
12 DOES 1 through X, inclusive,

13 Third-Party Defendants.

14 This matter having come on for hearing on the 10th day of October, 2018, before the
15 Honorable Judge Jerry Wiese, on Defendant R & O CONSTRUCTION, INC.'s ("R&O") MOTION
16 TO DISMISS; Plaintiffs appearing by and through their counsel J. Colby Williams, Esq., and Philip
17 R. Erwin, Esq., of Campbell & Williams; Defendant R&O appearing by and through its counsel
18 Jeffrey S. Vail, Esq. and Brett M. Godfrey, Esq., of Godfrey | Johnson, P.C., and Defendants TOM
19 WELCH, ORLUFF OPHEIKENS, CHET OPHEIKENS, AND SLADE OPHEIKENS
20 (collectively "The Individual Defendants") appearing by and through their counsel Max E. Corrick,
21 II, Esq. and John E. Gormley, Esq., of Olson, Cannon, Gormley, Angulo, and Stoberski, who also
22 represent R&O in this matter.

23 The Court having considered the papers, pleadings, and oral arguments, orders as follows:

- 24 1. Plaintiffs filed their Third Amended Complaint on July 30, 2018, which asserted in its
25 Third Cause of Action a single claim for relief against R&O for Reverse Piercing of the
26 Corporate Veil.
- 27 2. Defendant R&O has filed a Motion to Dismiss this sole claim for relief against R&O
28 pursuant to NRCP 12(b)(5), asserting, *inter alia*, that Plaintiffs had failed to properly

1 state an *alter ego* claim under NRS § 78.747, and that a pre-judgment claim for relief
2 for reverse piercing of the corporate veil is impermissible under the circumstances
3 presented in this case. The Individual Defendants filed a timely joinder to R&O's
4 Motion. An Opposition was timely filed by Plaintiffs, and R&O and The Individual
5 Defendants filed their respective Replies.

6
7 3. Additionally, at oral argument, R&O's counsel moved for the Court to grant their
8 pending Motion to Associate, and thereby to appear before this Court *pro hac vice*.
9 Plaintiffs did not oppose that Motion. The Court grants the pending Motion to
10 Associate.

11 4. Pursuant to *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 8 P.3d 841 (2000),
12 NRS 78.747, and because Plaintiffs' sole claim for relief against R&O does not allege
13 negligence or any other wrongful conduct by R&O and will, therefore, confuse the jury,
14 Plaintiffs are barred from asserting their claim of relief for reverse piercing of the
15 corporate veil against R&O prior to an uncollectible judgment being entered in this case
16 against Orluff Opheikens.

17 5. Accordingly, the Court finds that Plaintiffs have failed to state a claim against R&O
18 upon which relief may be granted. The Court specifically notes that it has not
19 considered any exhibit to any filing related to R&O's Motion in reaching its conclusion.
20 Therefore, the Court grants R&O's Motion to Dismiss Plaintiffs' Third Cause of Action
21 pursuant to NRCP 12(b)(5) without prejudice.

22 WHEREFORE, it is hereby ordered, adjudged and decreed that R & O Construction, Inc.'s
23 Motion to Dismiss is granted without prejudice, and its Motion to Associate is granted.
24 Furthermore, there being no just reason for delay, this Court determines, directs and certifies that
25 final judgment is entered in favor of R&O pursuant to NRCP 54(b).

26 Dated this 22 day of October, 2018.

27 
HONORABLE JERRY WIESE MD

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

Respectfully submitted by:

Approved as to form and content by:

Dated this 19th day of October, 2018

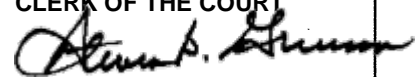
Dated this 19th day of October, 2018

GODFREY | JOHNSON

CAMPBELL & WILLIAMS

By: /s/ Karen Porter
KAREN PORTER
Nevada Bar No. 13099
9557 S. Kingston Ct.
Englewood, CO 80112
Attorneys for R&O

By: /s/ Philip R. Erwin
PHILLIP R. ERWIN
Nevada Bar No. 11563
700 S. Seventh St.
Las Vegas, NV 89101
Attorneys for Plaintiffs



1 **NEOJ**
John E. Gormley, Esq.
2 Nevada Bar No. 001611
3 **OLSON, CANNON, GORMLEY**
4 **ANGULO & STOBERSKI**
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
5 Telephone: 702-384-4012
Facsimile: 702-383-0701
6

7 Karen Porter
Nevada Bar No. 13099
8 Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
9 **GODFREY | JOHNSON**
9557 S. Kingston Court
10 Englewood, Colorado 80112
Telephone: 303-228-0700
11 Facsimile: 303-228-0701
12

13 Attorneys for Defendants
14 **R&O CONSTRUCTION,**
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

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

17
18 PETER GARDNER and CHRISTIAN
19 GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

20 Plaintiffs,
21 vs.

22 HENDERSON WATER PARK, LLC dba
23 COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
24 COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
25 WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
26 an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
27 individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
28 HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
DOES 1 through X, inclusive,

12 Third-Party Defendants.

13
14 **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION,**
15 **INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE**

16
17 TO: ALL PARTIES AND THEIR RESPECTIVE COUNSEL

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

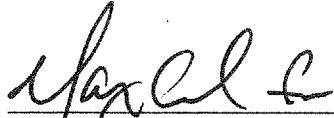
26 ///

27 ///

1 PLEASE TAKE NOTICE that an Order Granting Defendant R & O Construction, Inc.'s
2 Motion to Dismiss and Motions to Associate has been entered in the above-entitled Court on the
3 23rd day of October, 2018, a copy of which is attached hereto.

4 Dated October 24, 2018.

5 OLSON, CANNON, GORMLEY,
6 ANGULO & STOBERSKI

7 

8 JOHN E. GORMLEY, Esq.
9 Nevada Bar No. 001611
10 9950 West Cheyenne Avenue
11 Las Vegas, Nevada 89129
12 Attorney for Defendants

13 Karen Porter
14 Nevada Bar No. 13099
15 Brett Godfrey (Admitted Pro Hac Vice)
16 Jeffrey Vail (Admitted Pro Hac Vice)
17 GODFREY JOHNSON
18 9557 South Kingston Court
19 Englewood, CO 80112
20 Attorneys for Defendants
21 *R&O CONSTRUCTION,*
22 *TOM WELCH; ORLUFF OPHEIKENS;*
23 *SLADE OPHEIKENS; and CHET*
24 *OPHEIKENS*
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2018, I sent via e-mail a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION, INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE** on the Clark County E-File Electronic Service List (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Donald J. Campbell, Esq.
Samuel R. Mirkovich, Esq.
Philip R. Erwin, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101
Attorneys for Plaintiffs
*PETER GARDNER and CHRISTIAN
GARDNER on behalf of minor child,
LELAND GARDNER*

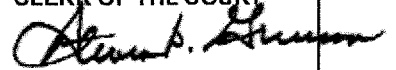
Rebecca L. Mastrangelo, Esq.
ROGERS, MASTRANGELO, CARVALHO
& MITCHELL
700 S. Third Street
Las Vegas, NV 89101
Attorney for Defendants
*SCOTT HUIISH, CRAIG HUIISH and
WEST COAST WATER PARKS, LLC*

Paul F. Eisinger, Esq.
Douglas J. Duesman, Esq.
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 East Bridger Avenue
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Defendant/Third-Party Plaintiff
*HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK*

Marsha L. Stephenson, Esq.
STEPHENSON & DICKINSON
2820 W. Charleston Blvd, Suite 17
Las Vegas, NV 89102
Attorney for Third-Party Defendant
WILLIAM PATRICK RAY, JR.

Steven T. Jaffe, Esq.
Kevin S. Smith, Esq.
HALL JAFFE & CLAYTON, LLP
7425 Peak Drive
Las Vegas, NV 89128
Attorneys for Defendant
SHANE HUIISH


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI



ORDR

John E. Gormley, Esq.
Nevada Bar No. 001611
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702-384-4012
Facsimile: 702-383-0701

Karen Porter
Nevada Bar No. 13099
Brett Godfrey (Admitted *Pro Hac Vice*)
Jeffrey Vail (Admitted *Pro Hac Vice*)
GODFREY | JOHNSON
9557 S. Kingston Court
Englewood, Colorado 80112
Telephone: 303-228-0700
Facsimile: 303-228-0701

Attorneys for Defendants
R&O CONSTRUCTION,
TOM WELCH; ORLUFF OPHEIKENS;
SLADE OPHEIKENS; and CHET OPHEIKENS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PETER GARDNER and CHRISTIAN
GARDNER, individually, and on behalf of
minor child LELAND GARDNER,

Plaintiffs,

vs.

HENDERSON WATER PARK, LLC dba
COWABUNGA BAY WATER PARK, a
Nevada limited liability company; WEST
COAST WATER PARKS, LLC, a Nevada
limited liability company; DOUBLE OTT
WATER HOLDINGS, LLC, a Utah limited
liability company; ORLUFF OPHEIKENS,
an individual; SLADE OPHEIKENS, an
individual; CHET OPHEIKENS, an
individual; SHANE HUIH, an individual;
SCOTT HUIH, an individual; CRAIG
HUIH, an individual; TOM WELCH, an

Case No. A-15-722259-C
Dept. No. XXX

**ORDER GRANTING DEFENDANT R & O
CONSTRUCTION, INC.'S MOTION TO
DISMISS AND MOTIONS TO ASSOCIATE**

Date of Hearing: October 10, 2018
Time of Hearing: 9:00 a.m.

1 individual; R&O CONSTRUCTION, INC.,
2 a Utah corporation, and DOES I through X,
3 inclusive; ROE CORPORATIONS I
4 through X, inclusive, and ROE LIMITED
LIABILITY COMPANY I through X,
inclusive,

5 Defendants.

6
7 HENDERSON WATER PARK, LLC dba
8 COWABUNGA BAY WATER PARK, a
Nevada limited liability company,

9 Third-Party Plaintiff,

10 vs.

11 WILLIAM PATRICK RAY, JR.; and
DOES 1 through X, inclusive,

12 Third-Party Defendants.

13
14 This matter having come on for hearing on the 10th day of October, 2018, before the
15 Honorable Judge Jerry Wiese, on Defendant R & O CONSTRUCTION, INC.'s ("R&O") MOTION
16 TO DISMISS; Plaintiffs appearing by and through their counsel J. Colby Williams, Esq., and Philip
17 R. Erwin, Esq., of Campbell & Williams; Defendant R&O appearing by and through its counsel
18 Jeffrey S. Vail, Esq. and Brett M. Godfrey, Esq., of Godfrey | Johnson, P.C., and Defendants TOM
19 WELCH, ORLUFF OPHEIKENS, CHET OPHEIKENS, AND SLADE OPHEIKENS
20 (collectively "The Individual Defendants") appearing by and through their counsel Max E. Corrick,
21 II, Esq. and John E. Gormley, Esq., of Olson, Cannon, Gormley, Angulo, and Stoberski, who also
represent R&O in this matter.

22 The Court having considered the papers, pleadings, and oral arguments, orders as follows:

- 23 1. Plaintiffs filed their Third Amended Complaint on July 30, 2018, which asserted in its
24 Third Cause of Action a single claim for relief against R&O for Reverse Piercing of the
25 Corporate Veil.
26 2. Defendant R&O has filed a Motion to Dismiss this sole claim for relief against R&O
27 pursuant to NRCP 12(b)(5), asserting, *inter alia*, that Plaintiffs had failed to properly
28

1 state an *alter ego* claim under NRS § 78.747, and that a pre-judgment claim for relief
2 for reverse piercing of the corporate veil is impermissible under the circumstances
3 presented in this case. The Individual Defendants filed a timely joinder to R&O's
4 Motion. An Opposition was timely filed by Plaintiffs, and R&O and The Individual
5 Defendants filed their respective Replies.

- 6
- 7 3. Additionally, at oral argument, R&O's counsel moved for the Court to grant their
8 pending Motion to Associate, and thereby to appear before this Court *pro hac vice*.
9 Plaintiffs did not oppose that Motion. The Court grants the pending Motion to
10 Associate.
- 11 4. Pursuant to *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 8 P.3d 841 (2000),
12 NRS 78.747, and because Plaintiffs' sole claim for relief against R&O does not allege
13 negligence or any other wrongful conduct by R&O and will, therefore, confuse the jury,
14 Plaintiffs are barred from asserting their claim of relief for reverse piercing of the
15 corporate veil against R&O prior to an uncollectible judgment being entered in this case
16 against Orluff Opheikens.
- 17 5. Accordingly, the Court finds that Plaintiffs have failed to state a claim against R&O
18 upon which relief may be granted. The Court specifically notes that it has not
19 considered any exhibit to any filing related to R&O's Motion in reaching its conclusion.
20 Therefore, the Court grants R&O's Motion to Dismiss Plaintiffs' Third Cause of Action
21 pursuant to NRCP 12(b)(5) without prejudice.

22 WHEREFORE, it is hereby ordered, adjudged and decreed that R & O Construction, Inc.'s
23 Motion to Dismiss is granted without prejudice, and its Motion to Associate is granted.
24 Furthermore, there being no just reason for delay, this Court determines, directs and certifies that
25 final judgment is entered in favor of R&O pursuant to NRCP 54(b).

26 Dated this 22 day of October, 2018.

27 
HONORABLE JERRY WIESE MD

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

Respectfully submitted by:

Approved as to form and content by:

Dated this 19th day of October, 2018

Dated this 19th day of October, 2018

GODFREY | JOHNSON

CAMPBELL & WILLIAMS

By: /s/ Karen Porter

By: /s/ Philip R. Erwin

KAREN PORTER

PHILLIP R. ERWIN

Nevada Bar No. 13099

Nevada Bar No. 11563

9557 S. Kingston Ct.

700 S. Seventh St.

Englewood, CO 80112

Las Vegas, NV 89101

Attorneys for R&O

Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****March 02, 2016**

A-15-722259-C

Peter Gardner, Plaintiff(s)

vs.

Henderson Water Park, LLC, Defendant(s)

March 02, 2016**9:30 AM****Motion to Quash**

**Jennifer Bradley's
Motion to Quash
Subpoena and
Motion for Protective
Order Barring
Deposition**

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Alan Castle**RECORDER:** Francesca Haak**REPORTER:****PARTIES****PRESENT:**

McLeod, Alexandra B.

Attorney

Mirkovich, Samuel R., ESQ

Attorney

JOURNAL ENTRIES

- Proprietary in nature and remain confidential. Discovery Commissioner noted in the Federal case cited "LVRC Holdings LLC v. Brekka, 518 F 3d 1127" (9th Cir. 2009) that basically, there was no implied employment agreement to keep confidential secrets; and, in this case there is such an implied agreement. with the exception of compensation, in this case clearly there was intent to be able to discuss key issues of how to deal with public relations issues and maintain those conversations, and discussions confidentially. Further, facts are never privileged and the Discovery Commissioner view is it should not be part of that confidential umbrella, however, what was spoken about with the client in terms of how to handle the public relations issue (i.e., perceptions and opinions) was proprietary and intended to be confidential because it does go to the operations of the business, the marketing of the business, the public relations image of the business; but, once a decision has been made (i.e., what press releases have been released, what was talked about with the public, communications with the health department even before the releases went out) the Discovery Commissioner does not think

that should be privileged. Colloquy regarding Rule 45 document production. Discovery Commissioner recommends the documents be provided a few days in advance of the deposition and parties can work together to make that happen. As to the deposition subpoena requested items, COMMISSIONER RECOMMENDED, item (#1) needs to be produced with financial information redacted; item (#2) should be factual in nature, and mental impressions, strategy and opinions are to be redacted; item (#3) is not protected; item (#4) is not protected; item (#5) should be factual in nature, and mental impressions, strategies and opinions are to be redacted; item (#6) not protected; item (#7) not protected, drafts are protected; item (#8) not protected, drafts are protected; item (#9) not protected, drafts are protected; item (#10) not protected; item (#11) not protected; item (#12) any internal conversations are protected; item (#13) any internal conversations are protected; item (#14) timesheets, billing and financials are Protected; item (#15) timesheets, billing statements and financials are Protected; and, Plaintiffs' rights are Reserved to pursue information that may be deemed necessary in the future. Discovery Commissioner clarified the information is being deemed protected, not privileged. Colloquy. Discovery Commissioner recommended if during the deposition a party wishes to assert a privilege, follow 'coyote springs' because this involves confidential information. COMMISSIONER RECOMMENDED, Subpoenaed Non-Party Jennifer Bradley's Motion to Quash Subpoena and Motion for Protective Order Barring Deposition is GRANTED In Part and DENIED In Part. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations.

04/29/16 11:00 a.m. Status Check: Compliance - Report and Recommendations

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****March 18, 2016**

A-15-722259-C Peter Gardner, Plaintiff(s)
 vs.
 Henderson Water Park, LLC, Defendant(s)

March 18, 2016	9:30 AM	Motion to Compel	Pliffs' Motion to Compel Deft Henderson Water Park, LLC's Responses to Plaintiffs' First Set of Requests for Production and OST
-----------------------	----------------	-------------------------	--

HEARD BY: Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Campbell, Donald J.	Attorney
	Eisinger, Paul F.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- Judge Gonzalez as acting Discovery Commissioner.

Argument by Mr. Campbell re: drowning accident of a child at the water park, and counsel addressed the child's catastrophic injuries. The water park opened 2014, and the accident occurred the second year. Arguments by Mr. Campbell and Mr. Eisinger. Colloquy re: in addition to Henderson and Southern Nevada Health District there was an Internal Investigation that culminated in the Incident Report (already produced). Mr. Eisinger requested an opportunity to brief financial issues. Arguments by counsel.

COURT RECOMMENDED, motion is GRANTED IN PART; on Requests for Production 1 through 34, OBJECTIONS ARE WAIVED except for objections based on Attorney / client privilege or Attorney work product privilege; for privileges made, counsel may submit a privilege log for review by Pltf's counsel, and to determine if counsel can work out a good faith resolution on documents where privilege is claimed.

COURT RECOMMENDED, on RFP 35 and 36, SCOPE is NARROWED to meetings related to life guard or other safety operations at the premises during the relevant timeframe; Court WILL NOT address any financial or control discovery issues UNTIL AFTER Mr. Eisinger has an opportunity to address punitive damages issues with the Trial Judge (by Motion); HOWEVER, if it isn't done within the next 60 days, Mr. Campbell can ask the Discovery Commissioner to Recommend Deft respond.

COURT RECOMMENDED, if additional documents are produced after depositions are concluded, counsel may re-take depositions on new issues, however, Court will not make a determination on assessment related to expenses at this time. COURT RECOMMENDED, Deft has 30 days to prepare a privilege log on RFP 1 through 34; try to resolve issues, or file a supplemental Motion; attorneys fees are GRANTED, but fees will be determined by Commissioner Bulla based on supporting documentation. Upon Mr. Eisinger's inquiry, Mr. Campbell confirmed the depositions are moving forward.

Mr. Campbell to prepare the Report and Recommendations, and Mr. Eisinger to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Campbell to appear at status check hearing to report on the Report and Recommendations.

4/29/16 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****April 20, 2016**

A-15-722259-C Peter Gardner, Plaintiff(s)
 vs.
 Henderson Water Park, LLC, Defendant(s)

April 20, 2016 9:30 AM Motion to Compel Pltfs' Motion to Compel

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT: Campbell, Donald J. Attorney
 Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Commissioner advised counsel disputes from March 18, 2016 must be discussed with Judge Gonzalez to clarify the Recommendation. COMMISSIONER RECOMMENDED, Pltf has until April 27, 2016 to file an Objection to the March 2, 2016 hearing. However, if the Judge has signed the Report and Recommendations from the hearing, then he may require the Plaintiffs to file a Motion to Reconsider instead of hearing the Objection.

Argument by Mr. Campbell re: history of the case, and Pltfs' extraordinary financial devastation; argument in support of the Motion. Colloquy re: clarification on the March 2, 2016 hearing related to Jennifer Bradley, and communications which arose as a result of event at Cowabunga Bay Water Park. Commissioner previously addressed the distinction between attorney work product versus confidential information. Commissioner does not have emails or text messages.

COMMISSIONER RECOMMENDED, include in Report and Recommendation the CAVEAT that if the Judge did find any type of confidentiality or privilege was waived on March 18, 2016, then everything must be disclosed. Argument by Mr. Campbell. COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; from In Camera Review (Page 70) produce JB 70; JB 89 and 90 are PROTECTED; JB 91 and 92 - produce if part of her file; JB 93 and 94 are PROTECTED; JB 95 production as discussed in Open Court; JB 96 is PROTECTED; produce JB 97 and 98, JB 99 - produce in part; produce JB 100 and 101; produce again with JB production; JB 102 is PROTECTED; produce JB 103, 104, and 106; JB 105 is PROTECTED; JB 107 - produce with redactions as discussed; produce JB 108; Defts need to check on emails and texts within the guidelines discussed, and produce them; production was not appropriate, it wasn't done correctly, and Commissioner's Recommendation was not followed. Argument by Mr. Eisinger.

COMMISSIONER RECOMMENDED, produce texts and emails to Commissioner for in camera review; counsel will produce the material by 4/29/16; if Commissioner sees another similar production from Defts, Commissioner will Recommend a four figure sanction against Defts.

Mr. Campbell to prepare the Report and Recommendations, and Mr. Eisinger to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Campbell to appear at status check hearing to report on the Report and Recommendations.

5/27/16 11:00 a.m. Status Check: Compliance

CLERK'S NOTE: Minutes amended 4/29/16 to reflect Commissioner's intent. JL

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of:

Donald Campbell / Samuel Mirkovich
Paul Eisinger / Alexandra McLeod

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****April 21, 2016**

A-15-722259-C Peter Gardner, Plaintiff(s)
 vs.
 Henderson Water Park, LLC, Defendant(s)

April 21, 2016 2:45 PM Telephonic Conference

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Campbell, Donald J.	Attorney
	Eisinger, Paul F.	Attorney
	McLeod, Alexandra B.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- Mr. Campbell present in the courtroom.

Mr. Campbell present in the courtroom.

Court understands there is a dispute on the Report and Recommendation and parties were referred by the Discovery Commissioner for clarification. Court acknowledged receipt of the proposed Report and Recommendation sent over by Mr. Eisinger; copy printed for Mr. Campbell. Mr. Eisinger explained the language inserted in the proposed order, noting page 49 of the transcript of the March 18th hearing. Mr. Mirkovich referred the Court to page 46, line 21. Court confirmed it had waived the objections that were, as Mr. Eisinger had stated, vague, ambiguous, overbroad, and compound, as they were identified in the answers. Mr. Eisinger advised that is what he had put in his proposed order, but opposing counsel's language indicates all objections are waived. Court clarified, counsel had made 4 specific objections in his response; the Court determined those objections were waived; that means counsel cannot make any more, but the Court preserved the attorney-client and attorney work product ability to object.

Ms. McLeod referred the Court to RFP no. 26, noting this one is based on confidentiality and not privilege. Court noted it had overruled all the objections to that particular one; Court understands counsel thinks those are confidential, but the Court does not believe a confidentiality clause by one of Defendant's representatives will preclude production of the information; counsel may submit an order requiring that be produced.

Mr. Eisinger further argued Commissioner Bulla ruled in the Defendants favor before parties came before this Court and there was no objection by the Plaintiff; an extension was later obtained for Plaintiff to do an objection to Judge Wiese; yesterday, Commissioner Bulla reaffirmed her position on the confidentiality of those documents; they have done a privilege log; he also does not recall any discussion with this Court on RFP no. 26.

Court noted the request relates to lifeguard training, the subject incident, and/or staffing. Mr. Eisinger explained the distinction with Commissioner Bulla's ruling is that those types of communications between the Defendant and Ms. Bradley, their publicist, are privileged. Court NOTED, it had previously made the determination in the CityCenter case regarding Sitrick & Bunting that the PR people who are available to assist were not privileged; a writ went up to the Supreme Court, and a writ did not issue from them; the request here relates to the subject incident, lifeguard training, and/or staffing, and they are relevant to the inquiry, which in this particular incident is narrowly tailored.

Mr. Campbell noted for the record that the matter which Commissioner Bulla handled was a subpoena served on Ms. Bradley asking for all of her files; this is an RFP served on a party, specifically Cowabunga Bay; the RFP's were outstanding for months, and even though extensions were granted, opposing counsel still refused to answer.

Court advised the Report and Recommendation sent over by Campbell Williams has been signed and given back to Mr. Campbell.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

May 24, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**May 24, 2016 9:00 AM Objection to Discovery
Commissioner's Report**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney

JOURNAL ENTRIES

- Mr. Mirkovich argued that there were inadequate life guards at the wave pool at the time of the incident. Mr. Eisinger submitted on the briefs. COURT ORDERED, Decision AFFIRMED. Mr. Eisinger to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****June 16, 2016**

A-15-722259-C Peter Gardner, Plaintiff(s)
 vs.
 Henderson Water Park, LLC, Defendant(s)

June 16, 2016 9:00 AM Motion for Leave

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Leah Armendariz

PARTIES

PRESENT: Campbell, Donald J. Attorney
 Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- The above-referenced matter came on for hearing before Judge Jerry Wiese on Thursday, June 16, 2016, with regard to Plaintiff s Motion for Leave to File Amended Complaint. Plaintiff seeks to add various individuals, who make up the Defendant s Management Committee, as Defendants. Plaintiff argues that LLC protection applies to contractual claims, but not necessarily tort claims, and the claims that Plaintiff wants to assert against these new Defendants are strictly tort claims. Further, Plaintiff argues that the alter-ego doctrine should be applied to LLC s, based in part on the case of In re Giampetro, 317 B.R. 841, 845 (Bankr.D.Nev. 2004). In that case, the Bankruptcy Court believed it would be highly likely that the Nevada Courts would extend the alter ego doctrine to members of LLCs.

This Court finds that the Nevada Revised Statutes protect members of an LLC, not only from debts incurred by an LLC, but also liabilities incurred by the LLC. NRS 86.371 indicates that . . . no member or manager of any limited-liability company formed under the laws of this State is individually liable for the debts or liabilities of the company. (emphasis added). Further, although the Nevada corporation statutes include an alter ego exception to the corporate protections, the LLC statutes do not contain a similar exception, creating a negative inference that the Nevada legislature

did not intend for it to apply to LLCs. (Suing the Man Behind the Curtain: Can Nevada LLC Members be Liable Under the Alter Ego Doctrine? by Ryan Lower, Esq., Nevada Lawyer, November, 2014, pg. 16, citing to Dep t of Taxation v. DaimlerChrysler, 121 Nev. 541, 548, 119 P.3d 135, 139 [2005]).

This Court concludes that the requested amendment and inclusion of the individuals who make up the Defendant s Management Committee would be futile, as such individuals are improper Defendants. Consequently, the Motion for Leave to Amend is hereby DENIED without prejudice.

Defense counsel is to prepare an Order consistent with the foregoing, have it approved as to form and content by all counsel, and submit it to the Court within 10 days.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****August 26, 2016**

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

August 26, 2016	9:00 AM	Motion for Protective Order	Water Park Defts' Motion for Protective Order Regarding Site Inspection on OST
------------------------	----------------	------------------------------------	---

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Sandra Pruchnic**REPORTER:****PARTIES**

PRESENT:	Erwin, Philip R., ESQ	Attorney
	McLeod, Alexandra B.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- COMMISSIONER RECOMMENDED, start inspection one hour earlier, and Pltff's counsel can videotape the park during that one hour, but counsel are Not Allowed to go inside interior buildings; do not capture employees on video as discussed; video testing of wave pool is PROTECTED within the confines of litigation until otherwise ordered by the District Court Judge.

Colloquy re: Wilson versus Walmart stores. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Commissioner advised Pltff's counsel 1) do not try the case is the press, 2) if information ends up on the Internet, the Judge or Commissioner will address it, and 3) no videotaping in the park when open for business.

Mr. Mirkovich to prepare the Report and Recommendations, and Mr. McLeod to approve as to form

and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations.

10/7/16 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 06, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**September 06, 2016 9:00 AM Motion For
Reconsideration**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Plaintiffs' Motion for Reconsideration of Order Affirming Discovery Commissioner's March 2, 2016 Report and Recommendations or in the Alternative, for Order Setting Ribeiro Hearing

At the request of Mr. Mirkovich and there being no objection. COURT ORDERED, matter CONTINUED for Chambers Calendar for the Court to further review the pleadings and issue a decision.

CONTINUED.....9/23/16

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 09, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

September 09, 2016 3:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:**

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

—

The above-referenced matter came on for hearing before Judge Jerry A. Wiese II, on Tuesday, September 6, 2016, with regard to Plaintiffs Motion for Reconsideration of Order Affirming Discovery Commissioner s March 2, 2016 Report and Recommendations, or in the Alternative, for Order Setting Ribeiro Hearing. The parties were represented by counsel, and after reviewing all relevant pleadings and papers, the Court heard oral argument, and then reserved ruling. The Court now enters its ruling and finds and concludes the following:

As a brief summary, Discovery Commissioner Bulla entered a Report and Recommendation following a March 2, 2016, hearing, with regard to a Motion to Quash and Motion for Protective Order. Commissioner Bulla recommended in detail exactly what information was discoverable and what information was not discoverable. Subsequently, on March 18, 2016, Judge Gonzalez, (as Acting Discovery Commissioner), heard argument with regard to a Motion to Compel, and Judge Gonzalez recommended that Defendant's objections to Plaintiff's Requests for Production were waived. On March 24, 2016, this Court held a hearing with regard to Plaintiff's Objection to the Discovery Commissioner's March 2, 2016, Report and Recommendation. This Court concluded that Commissioner Bulla analyzed the specific discovery dispute and came to a reasoned and rational decision. The Court further found that Acting Discovery Commissioner Gonzalez improperly sanctioned the Defendants by recommending that their objections to Requests for Production were

waived, without a Ribeiro hearing. (Young v. Johnny Ribeiro, 106 Nev. 88, 787 P.2d 777 [1990]). The Plaintiff now argues that the Court erred in ruling that Acting Discovery Commissioner's March 2, 2016, ruling was improper without a Ribeiro hearing. Plaintiffs argue that the Court should reconsider its prior decision, or in the alternative, schedule a Ribeiro hearing.

Having considered all of the papers and pleadings on file, and the oral arguments of counsel, this Court concludes that it did err in concluding that Acting Discovery Commissioner Gonzalez erred in failing to conduct a Ribeiro hearing. In fact, this Court agrees with Plaintiffs that a Ribeiro hearing is only required when the Court imposes a case-terminating sanction pursuant to NRCP 37. Because Acting Discovery Commissioner Gonzalez did not issue a case terminating sanction, but instead issued a sanction consisting of a waiver of discovery objections, a Ribeiro Hearing was not required.

The Court notes that although NRCP 33 includes a waiver clause, (Any ground not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown NRCP 33[b][4]), NRCP 34 does not include a similar clause, and consequently, there is no mandatory waiver pursuant to NRCP 34. NRCP 34 indicates that The party upon whom the request is served shall serve a written response within 30 days after the service of the request. A shorter or longer time may be directed by the court. . . . (NRCP 34[b]).

When Acting Discovery Commissioner Gonzalez entered her Report and Recommendation, following the March 18, 2016, hearing, she impliedly overruled Discovery Commissioner Bulla's Report and Recommendation following the March 2, 2016, hearing. Such action was improper because Discovery Commissioners are not to overrule each other. This Court finds and concludes that Discovery Commissioner Bulla's Report and Recommendation following the March 2, 2016, hearing, was well reasoned, was based on substantial evidence, and was not an abuse of her discretion. The Court finds that Acting Discovery Commissioner Gonzalez's subsequent Report and Recommendation which impliedly overruled Commissioner Bulla's Report and Recommendation was improper, and an abuse of her discretion (as an Acting Discovery Commissioner). Consequently, this Court affirms Commissioner Bulla's Report following the March 2, 2016, hearing, and the findings and recommendations set forth at the March 2, 2016, hearing, and reiterated on April 20, 2016, are affirmed and adopted. Acting Discovery Commissioner Gonzalez's Report and Recommendation following the March 18, 2016 hearing, to the extent inconsistent with Commissioner Bulla's decisions, is hereby rejected or overruled.

Based upon the foregoing, this Court hereby DENIES the Plaintiffs Motion for Reconsideration, as well as the alternative request for a Ribeiro hearing. The Court does, however, modify the basis for its denial, consistent with the rationale set forth in this Minute Order. If the Plaintiffs seek a sanction against the Defendant for its alleged untimely responses to Requests for Production, pursuant to NRCP 34, and/or NRCP 37, a Motion should be filed with Discovery Commissioner Bulla, as she would potentially be able to modify her own previous Report and Recommendation if she believes such modification would be appropriate.

Defense counsel is to prepare an Order consistent with this Minute Order, submit it to opposing counsel for approval as to form and content, and then submit it to this Court within 10 days for signature.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 13, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**September 13, 2016 9:00 AM Motion for Summary
Judgment**

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Defendant's Motion for Summary Judgment as to Claims Against Defendants West Coast and Double OTT

Following arguments regarding liability of cooperate officers and individual management members. Court finds the statute clear and unambiguous. COURT ORDERED, motion GRANTED. Mr. Eisinger to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 16, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**September 16, 2016 9:00 AM Motion to Compel Plaintiffs' Motion to
Compel Production
of Documents.**

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Campbell, Donald J. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Commissioner stated subsequent remedial measures are discoverable. Colloquy. Arguments by counsel. COMMISSIONER RECOMMENDED, one email CB4961 through CB4962 must be submitted to Commissioner for IN CAMERA review (provide redacted and unredacted Pages). Colloquy re: preparing a privilege log. Pages provided from Ms. McLeod in Open Court. Date of injury was May 27, 2015.

Document submitted to Commissioner in Open Court, and document WILL BE MAINTAINED by Commissioner (until determined at a later date). COMMISSIONER RECOMMENDED, produce Pages 4961 and 4962 in a redacted form. Ms. McLeod requested a stay to produce documents. Upon Commissioner's inquiry, COMMISSIONER RECOMMENDED, Ms. McLeod's request for 2.34(e) relief is GRANTED. Colloquy re: disclosing factual issues. Arguments by counsel. Commissioner will entertain a Motion for Protective Order when it is properly brought.

COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; Requests for Production First set - answer RFP 36 through 49, and redacted documents must be unredacted and produced; RFP 48 - Commissioner will not re-visit issue, it was already protected, but produce everything else in unredacted form; Second set RFP - answer 57 through 63; Third parties discussed, if true privilege exists, prepare a privilege log, cite specific statutes, provide to Pltf's counsel, and have a 2.34 conference. Mr. Mirkovich requested to waive objections. Commissioner will Not Waive work product or attorney-client privileges.

COMMISSIONER RECOMMENDED, go through the present time and ensure everything was disclosed; factual information from 2014 start date to present time (dealing with park safety all emails, letters, documents); Respond to 66 through 75 as discussed. Colloquy re: relevance. COMMISSIONER RECOMMENDED, answer RFP 80 through 85, but 83 was already addressed by separate Motion. Ms. McLeod requested three weeks to produce information If Commissioner sees similar redactions from Deft, Commissioner will sanction Deft and probably counsel.

COMMISSIONER RECOMMENDED, produce information within 30 days, or within five days after Court signs the Report and Recommendation. Mr. Mirkovich requested attorney fees and costs. COMMISSIONER RECOMMENDED, prepare a Motion for Memorandum of Fees, apply the Brunzell factors, and Deft can challenge the Memorandum; Status Check SET. Mr. Mirkovich requested clarification from Commissioner Bulla's prior Recommendations. Ms. McLeod is attempting to clarify Waiver issues. Commissioner advised counsel to clarify issues with Judge Wiese. Commissioner DEFERRED to Judge Wiese on the Waiver.

Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations.

10/14/16 9:00 a.m. Status Check: Memorandum of Fees.....SC: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 14, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

October 14, 2016 9:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Keri Cromer

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- STATUS CHECK: COMPLIANCE...STATUS CHECK: MEMORANDUM OF FEES

Commissioner advised she recently reviewed the application and objection, and she needed the report and recommendations prepared on the attorneys fees. Ms. McLeod submitted on the briefings. COMMISSIONER RECOMMENDED, attorneys fees in the amount of \$ 9,290.00 GRANTED; full amount due within 30 days, after the report and recommendations were signed by the judge. Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content.

A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mirkovich to appear at status check hearing to report on the Report and Recommendations.

11/18/2016 - 11:00 AM - STATUS CHECK: COMPLIANCE (R&R)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 20, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

October 20, 2016 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Teri Berkshire

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney
 Williams, Jon C. Attorney

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, Plaintiffs' Motion for NRCP 54(b) Certification of Order Granting Defendants' Motion for Summary Judgment as to Claims Against West Coast and Double Ott, GRANTED. Mr. Mirkovich to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 25, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

October 25, 2016 9:00 AM Motion for Leave

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Campbell, Donald J. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Plaintiffs' Motion for Leave to File Amended Complaint

Mr. Mirkovich requested to amend the Complaint to bring in the parents and additional defendant. Limited opposition by Ms. McLeod. COURT ORDERED, motion GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

November 17, 2016

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**November 17, 2016 9:00 AM Objection to Discovery
Commissioner's Report**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Campbell, Donald J. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Following arguments by counsel. COURT ORDERED, decision AFFIRMED; Attorney fees AFFIRMED. Court advised Ms. McLeod to file a Motion for Protective Order if necessary.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

January 26, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**January 26, 2017 9:00 AM Objection to Discovery
Commissioner's Report**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Erwin, Philip R., ESQ Attorney
 McLeod, Alexandra B. Attorney

JOURNAL ENTRIES

- Counsel indicated the matter was moot as the fees had been paid. COURT ORDERED, OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

March 28, 2017

A-15-722259-C	Peter Gardner, Plaintiff(s) vs. Henderson Water Park, LLC, Defendant(s)
---------------	---

March 28, 2017	9:00 AM	Motion for Determination of Good Faith Settlement
-----------------------	----------------	--

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Erwin, Philip R., ESQ	Attorney
	McLeod, Alexandra B.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney
	Peak, Jason W.	Attorney
	Rice, Samantha J.	Attorney

JOURNAL ENTRIES

- Defendant National Aquatic Safety Company, LLC's Motion for Good Faith Settlement Determination

Argument by Mr. Peak regarding the policy, how attorney fees are taken out, and policy limits in place. Opposition by Ms. McLeod and request for Mr. Peak to produce the policy. Objection by Mr. Peak. Court considered MGM, Velsicol, and Doctors Company factors. COURT ORDERED, motion GRANTED. Mr. Mirkovich to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****May 19, 2017**

A-15-722259-C

Peter Gardner, Plaintiff(s)

vs.

Henderson Water Park, LLC, Defendant(s)

May 19, 2017**9:30 AM****Motion for Protective
Order****Defendant,
Cowabunga Bay's
Motion for Protective
Order Regarding
NRCP 30(b)(6)
Deposition on OST****HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES****PRESENT:**

Eisinger, Paul F.

Attorney

Mirkovich, Samuel R., ESQ

Attorney

JOURNAL ENTRIES

- COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Topic 8 is PROTECTED, but Topics 1 through 7 are allowed. Arguments by counsel. Mr. Mirkovich will exclude Topic 8, however, time for deposition depends on who Deft produces. If there are multiple servers or depending on the technology, contact Commissioner by conference call if necessary. No fees or costs.

Mr. Mirkovich to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****June 14, 2017**

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

June 14, 2017	9:00 AM	Motion to Compel	Plaintiffs' Motion to Compel Production of Documents from Defendant Cowabunga Bay
----------------------	----------------	-------------------------	--

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Campbell, Donald J.	Attorney
	Eisinger, Paul F.	Attorney
	McLeod, Alexandra B.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- Trial date was moved and added to Odyssey (6-25-18 Trial date). Email at issue is from Tom Welch dated 7-31-15, a series of emails dealing with ownership and business issues, and an email between the Huish Brothers dated 12-1-15. Arguments by counsel. Ms. McLeod offered to communicate with her clients, and supplement facts that are not present in the Declaration. Commissioner would feel uncomfortable asking Ms. McLeod to do that. Mr. Mirkovich would be very uncomfortable with that as well.

COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Commissioner REQUIRED documents CB012976 and CB012977 turned over, and Commissioner Finds the attorney-client privilege does not protect those two Pages in light of the status of Mr. Welch; Commissioner gave

Defts 2.34(e), and the Pages will not be turned over until 10 business days after Court signs recommendation. Arguments by counsel re: Hulish communications. COMMISSIONER RECOMMENDED, Commissioner Finds documents CB018303, CB018304, and CB022166 are PROTECTED under NRCP 26(c); CB024138 is NOT PROTECTED, and is relevant; produce CB024138 with 2.34(e) relief within 10 days after Court signs recommendation.

Mr. Mirkovich stated a matter is pending before the Nevada Supreme Court on this case, and counsel sought to bring in individual management committee members as Defts in their individual capacity, and scope of discovery may change based on that Ruling. COMMISSIONER RECOMMENDED, Huish emails are PROTECTED WITHOUT PREJUDICE at this time; no fees or costs. Commissioner will hold onto the in camera; after Report and Recommendation is finalized by the District Court Judge, the in camera will be maintained as privileged in the Evidence Vault.

Mr. Mirkovich to prepare the Report and Recommendations, and Ms. McLeod to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

July 13, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

July 13, 2017 9:00 AM Motion for Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Eisinger, Paul F. Attorney
Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Plaintiffs' Motion for Order Shortening Time for Expedited Hearing of Plaintiffs' Petition to Distribute Partial Settlement Proceeds to Plaintiffs Peter and Christian Gardner

Following a conference at the Bench. COURT ORDERED, motion CONTINUED 7/201/7 9:00am.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

August 10, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

August 10, 2017 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Eisinger, Paul F. Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Arguments by Ms. McLeod regarding emails that were not discoverable by Tom Welch as they were attorney client privileged. Mr. Mirkovich argued Tom Welch's inactivity of practicing as an attorney therefore they were discoverable. Court did not find an abuse of discretion or clear error by the Discovery Commissioner. COURT ORDERED, decision AFFIRMED; motion DENIED. Mr. Mirkovich to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

August 29, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

August 29, 2017 9:00 AM Motion For Stay

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Erwin, Philip R., ESQ Attorney
 McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations,
Pending Resolution of Petition for Writ, on Order Shortening Time

Colloquy between Court and counsel regarding filing a Writ of Petition first or staying a specific
order or the whole case. COURT ORDERED, motion CONTINUED for the Writ to be filed first.

CONTINUED....9/19/17 9:00AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 19, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

September 19, 2017 9:00 AM Motion For Stay

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: McLeod, Alexandra B. Attorney
 Mirkovich, Samuel R., ESQ Attorney

JOURNAL ENTRIES

- Defendant's Motion for Stay of Order on Discovery Commissioner's Report and Recommendations, Pending Resolution of Petition for Writ, on Order Shortening Time

Mr. Mirkovich objected to the stay as he was concerned the ruling from the Supreme court would be after the trial commenced. Ms. McCleod argued for a stay pending the 2nd Writ filed regarding the discovery issue of privileged e-mail. COURT ORDERED, motion GRANTED; Case stayed pending the Order at issue only. Matter set for status check regarding the Writ 12/19/17 9:00am.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

December 19, 2017

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

December 19, 2017 9:00 AM Status Check

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Eisinger, Paul F.	Attorney
	Franco, Jacquelyn M.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- Mr. Eisinger stated they were waiting on a decision from the Supreme Court regarding the attorney client privilege and production of documents. Furthermore, there were seven more parties going to be added to the case. Mr. Mirkovich objected to the stay. COURT ORDERED, stay CONTINUED 1/16/18 9:00am. Court instructed counsel to produce the documents within five days of the Supreme Court's decision if applicable.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

January 16, 2018

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

**January 16, 2018 9:00 AM Status Check Status Check Re:
Court's Order
Granting Defendant's
Motion for Stay of
Order**

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Kory Schlitz

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Eisinger, Paul F. Attorney
Franco, Jacquelyn M. Attorney

JOURNAL ENTRIES

- Mr. Eisinger requested to keep the stay in place, noting parties are awaiting a decision from the Nevada Supreme Court, adding there is no prejudice to either side. COURT ORDERED, stay CONTINUED; matter CONTINUED.

CONTINUED TO: 3/20/18 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

March 20, 2018

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

March 20, 2018 9:00 AM Status Check

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Franco, Jacquelyn M. Attorney

JOURNAL ENTRIES

- Ms. Franco advised Co-Defendant Cowabunga Bay submitted a letter to the Court's chambers yesterday requesting the hearing be vacated. Further, the Supreme Court came down with a decision. COURT ORDERED, matter VACATED as MOOT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability**COURT MINUTES****July 20, 2018**

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

July 20, 2018	9:00 AM	Motion for Protective Order	Defendant Craig Huish's Motion for Protective Order as to the Location of his Deposition
----------------------	----------------	--	---

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Corrick, Max E	Attorney
	Duesman, Douglas J.	Attorney
	Fick, Walter F.	Attorney
	Gormley, John Earley	Attorney
	Mastrangelo, Rebecca L.	Attorney
	Mirkovich, Samuel R., ESQ	Attorney

JOURNAL ENTRIES

- Colloquy re: Okada factors; Craig Huish is an Accountant and he is concerned about leaving his practice. Upon Commissioner's inquiry, Mr. Mirkovich stated Plaintiff will not take a video deposition; argument by counsel. COMMISSIONER RECOMMENDED, motion is GRANTED; take the deposition in the State of Washington and arrange for video conference for counsel to appear or others can be present by video conference; Defts will bear costs of video conferencing. Mr. Mirkovich requested the deposition be taken downtown in proximity of the airport. COMMISSIONER SO RECOMMENDED. If there are problems, contact Commissioner by conference call. Ms. Mastrangelo to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a

contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

July 25, 2018

A-15-722259-C Peter Gardner, Plaintiff(s)
vs.
Henderson Water Park, LLC, Defendant(s)

July 25, 2018 9:00 AM Motion for Leave

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT: Corrick, Max E Attorney
 Gormley, John Earley Attorney
 Mirkovich, Samuel R., ESQ Attorney
 Smith, Kevin S. Attorney

JOURNAL ENTRIES

- Colby Williams, Esq., also present on behalf of Plaintiff.

Mr. Williams advised the Motion for Leave to File Third Amended Complaint was requesting to name R&O Construction as a Defendant and to amplify on allegations based on recent discoveries conducted. Mr. Williams was informed of the Court's inclination and submitted to the Motion. Argument by Mr. Corrick. COURT ORDERED, Motion GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 10, 2018

A-15-722259-C	Peter Gardner, Plaintiff(s) vs. Henderson Water Park, LLC, Defendant(s)
---------------	---

October 10, 2018 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Vanessa Medina

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT:	Campbell, Donald J.	Attorney
	Corrick, Max E	Attorney
	Duesman, Douglas J.	Attorney
	Erwin, Philip R., ESQ	Attorney
	Gormley, John Earley	Attorney
	Mirkovich, Samuel R., ESQ	Attorney
	Smith, Kevin S.	Attorney
	Williams, Jon C.	Attorney

JOURNAL ENTRIES

- Brett Godfrey, Esq., and Jeffrey Vail, Esq., present on behalf of Defendant, R and O Construction Company.

Dawn Davis, Esq., also present on behalf of Defendant, West Coast Water Parks LLC.

Mr. Godfrey advised there were pending Motions to Associate set for November 7th. There being no opposition by Counsel, COURT ORDERED, Motions to Associate GRANTED.

Mr. Vail argued there was an alter ego issue, and stated the Supreme Court's rulings. Mr. Corrick argued the issue was whether or not Nevada law allowed reverse pierce in a non-post-judgment context. Following arguments by Mr. Williams, Court FINDS, there aren't any allegations in the case

that R and O did anything individually wrong, that there is any liability on their part for any actions done on anybody's part for R and O. Additionally, having a defendant who is only there as a means of collection confuses a jury because they can't find any liability against them, and it makes more sense to be a post-judgment process and a post-judgment party. Furthermore, there isn't any manifest injustice by precluding them from being a party at this time, and ORDERED, Motion to Dismiss GRANTED WITHOUT PREJUDICE. Court ADVISED, R and O Construction can be brought back in at the end of the trial if there isn't a way to collect, and FURTHER ORDERED 54(b) certification GRANTED.

EXHIBIT(S) LIST

Case No.: A722259

Hearing Date: June 14, 2017

Dept. No.: XXX

Commissioner Bonnie Bulla

Plaintiff: Peter Gardner, et al

Court Clerk: Jennifer Lott

Recorder / Reporter: Francesca Haak

Donald Campbell

Counsel for Plaintiff:

Sam Mirkovich

vs.

Defendant: Henderson Water Park, LLC, et al

Counsel for Defendant:

Alexandra McLeod

Paul Eisinger

HEARING BEFORE THE COURT

COURT'S

 EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Envelope - In Camera submission (SEALED AND CONFIDENTIAL)			6-14-17



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DONALD J. CAMPBELL, ESQ.
700 S. SEVENTH ST.
LAS VEGAS, NV 89101

DATE: October 30, 2018
CASE: A-15-722259-C

RE CASE: PETER GARDNER and CHRISTIAN GARDNER, individually and on behalf of the minor child, LELAND GARDNER vs. HENDERSON WATER PARK, LLC dba COWABUNGA BAY WATER PARK; WEST COAST WATER PARKS, LLC; DOUBLE OTT WATER HOLDINGS, LLC; ORLUFF OPHEIKENS; SLADE OPHEIKENS; CHET OPHEIKENS; SHANE HUIISH; SCOTT HUIISH; CRAIG HUIISH; TOM WELCH; R&O CONSTRUCTION COMPANY

NOTICE OF APPEAL FILED: October 25, 2018

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANT R & O CONSTRUCTION, INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT R & O CONSTRUCTION, INC.'S MOTION TO DISMISS AND MOTIONS TO ASSOCIATE; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

PETER GARDNER and CHRISTIAN GARDNER, individually and on behalf of the minor child, LELAND GARDNER,

Plaintiff(s),

vs.

HENDERSON WATER PARK, LLC dba COWABUNGA BAY WATER PARK; WEST COAST WATER PARKS, LLC; DOUBLE OTT WATER HOLDINGS, LLC; ORLUFF OPHEIKENS; SLADE OPHEIKENS; CHET OPHEIKENS; SHANE HUIH; SCOTT HUIH; CRAIG HUIH; TOM WELCH; R&O CONSTRUCTION COMPANY,

Defendant(s),

Case No: A-15-722259-C

Dept No: XXX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 30 day of October 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

