

IN THE SUPREME COURT OF THE STATE OF NEVADA

ISRAEL BAIGUEN, an individual,)
)
 Plaintiff,)
)
)
 v.)
)
 HARRAH'S LAS VEGAS, LLC, a Nevada)
 Domestic Limited-Liability Company, dba)
 HARRAH'S CASINO HOTEL, LAS VEGAS;)
 HARRAH'S LAS VEGAS INC. dba)
 HARRAH'S CASINO HOTEL, LAS VEGAS;)
 CAESARS ENTERTAINMENT)
 CORPORATION, a Nevada Foreign)
 Corporation, dba HARRAH'S CASINO)
 HOTEL, LAS VEGAS; DOES I through X,)
 inclusive; and, and ROE CORPORATIONS I)
 through X, inclusive,)
)
 Defendants.)
 _____)

Supreme Court No. 70204
District Court Cse No. A708344
Electronically Filed
May 11 2016 08:36 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

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

WARNING

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

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

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 25 P.3d 898 (2001); *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 810 P.2d 1217 (1991). Please use tab dividers to separate any attachments.

1. **Judicial District:** Eighth **Department** 3
County Clark **Judge** Douglas W. Herndon
District Ct. Case No. A708544

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

Attorney: Jeffrey L. Galliher, Esq. Telephone: (702) 258-6238
Firm: The Law Offices of Steven M. Burris, LLC
Address: 2810 W. Charleston Blvd. Suite F-58
Las Vegas, Nevada 89102
Client(s): ISRAEL BAIGUEN

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

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

Attorney: Scot M. Mahoney, Esq. Telephone: (702) 252-3131
Firm: FISHER & PHILLIPS, LLP
Address: 300 S. 4th Street, Suite 1500
Las Vegas, NV 89101
Client(s): HARRAH'S LAS VEGAS, LLC d/b/a
HARRAH'S CASINO HOTEL d/b/a
CAESARS ENTERTAINMENT
CORPORATION

(List additional counsel on separate sheet if necessary)

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

- Judgment after bench trial
- Judgment after jury verdict
- Summary Judgment
- Default Judgment
- Grant/Denial of NRCP 60(b) relief
- Grant/Denial of injunction
- Grant/Denial of declaratory relief
- Review of agency determination
- Dismissal
 - Lack of jurisdiction
 - Failure to state a claim
 - Failure to prosecute
 - Other (specify).....
- Divorce Decree:
 - original modification
- Other disposition (specify)

5. **Does this appeal raise issues concerning any of the following:** N/A

- child custody
- venue
- termination of parental rights

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

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

8. **Nature of action.** Briefly describe the nature of the action and the result below: **(Complaint, Tab 1)**

This is a negligence action arising out of Defendant-employer's alleged failure to assist an employee in receiving medical attention after employee-Plaintiff suffered a stroke shortly after arriving at his place of employment.

It is undisputed that on October 19, 2012, Mr. Baiguen arrived at his workplace about fifteen minutes before his 4:30 pm scheduled start of shift. Multiple co-worker witnesses observed that Mr. Baiguen was mute, drooling, appeared disoriented, and was exhibiting facial droop. Those same co-workers sensed something was wrong and notified the Department manager, Karla Young, who observed Mr. Baiguen and attempted to speak to him, but found him to be unresponsive. Ms. Young told Mr. Baiguen's co-workers to take him home, where he was left unassisted. No emergency medical assistance was sought. Mr. Baiguen had suffered a stroke and was found three days later by his girlfriend exactly where he had been left unattended by Defendant. Harrah's written policies and procedures dictate that the security department - which includes trained emergency medical technicians - be contacted in the event of a serious illness or injury of a guest or employee. There is no evidence Baiguen clocked in that day.

Plaintiff appeals from the District Court's Order Granting Defendant's Motion for Summary Judgment entered on March 18, 2016. **(Order and Notice of Entry, Tab 2)**

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

Whether the district court erred in: Finding that employer Harrah's could have no liability to Plaintiff until such point that it came into contact with him and that Harrah's had no contact with him until he arrived at work.

Whether the district court erred in: Finding that clocking in is not determinative of whether the events arose out of Mr. Baighen's employment because he was in the process of activities to commence his workday.

Whether the district court erred in: Finding that Mr. Baiguen's negligence claim is preempted by worker's compensation as a matter of law because his injuries arose out of his course of employment, regardless of whether he actually filed a worker's compensation claim.

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised: **N/A**
11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of his court and the attorney general in accordance with NRAP 44 and NRS 30.130?
- N/A
 - Yes
 - No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues?
- Reversal of well-settled Nevada precedent (identify the case(s))
 - An issue arising under the United States and/or Nevada Constitutions
 - A substantial issue of first-impression
 - An issue of public policy
 - An issue where en banc consideration is necessary to maintain uniformity of the court's decisions
 - A ballot question

If so, explain:.

NRS 616A.020 provides that only employees who are injured *in the course of employment* shall have their remedy limited to workers' compensation, as set forth in NRS Chapters 616A to 616D (the Nevada Industrial Insurance Act [NIIA]). See NRS 616A.020(1) (emphasis added). In *Wood v. Safeway*, the Nevada Supreme Court held that "whether an injury occurs within the course of the employment refers merely to the time and place of employment, i.e., whether the injury occurs at work, during working hours, and while the employee is reasonably performing his or her duties." *Wood*, 121 Nev., at 733. However, "where the [NIIA] is not applicable, because either the injury or the employment is not within its coverage formula, the [NIIA] does not disturb any existing remedy." *McAffee v. Garrett Freightlines, Inc.*, 95 Nev. 483, 485 (1979). Here, because Mr. Baiguen's injury did not arise within the course of his employment, the district court should not have granted defendant's motion for summary judgment.

The Nevada Supreme Court has held in *Rio All Suite Hotel and Casino v. Phillips* that a compensable injury under the NIIA would result only from “increased risks” resulting from the scope of employment, and not “personal risks” that happen to occur while on the job. 126 Nev. 346, 351 (2010)(“Generally, injuries caused by employment-related risks are deemed to arise out of employment and are compensable. . . Personal risks are those that are “so clearly personal that, even if they take effect while the employee is on the job, they could not possibly be attributed to the employment. For example, a fall caused by the [employee's] personal condition, such as a bad knee, epilepsy, or multiple sclerosis, is a personal risk.”)

To determine whether an injury caused by a neutral risk “arose out of” employment, courts typically apply one of the following three tests: increased-risk test, actual-risk test, or positional-risk test. *Id.* at 352. The most widely utilized is the increased-risk test, which “examines whether the employment exposed the claimant to a risk greater than that to which the general public was exposed.” *Id.* Under the increased-risk test, an employee may recover if he is subjected “to a risk greater than that to which the general public [is] exposed.” *Id.* Even if a risk to which the employee is exposed “is [not] qualitatively ... peculiar to the employment,” the injury may be compensable as long as she faces an “increased quantity of a risk.” *Id.* Thus, when an employee “is exposed to a common risk more frequently than the general public,” there may be an increased risk. *Id.* at 353 (citing 1 Arthur Larson & Lex K. Larson, *Larson's Workers' Compensation Law* §§ § 3.03, at 3–4.1(2010)).

Lastly, Nevada law provides that *respondeat superior* liability attaches “when the employee is under the control of the employer and when the act is within the scope of employment.” *Molino v. Asher*, 96 Nev. 814, 817 (1980). Under the doctrine of *respondeat superior* an employer may be held liable for both negligent and intentional acts of employees. *See, e.g., Busch v. Flangas*, 108 Nev. 821, 824 (1992) (negligence); *Rockwell v. Sun Harbor Budget Suites*, 112 Nev. 1217, 1225, (1996) (intentional tort). Nevada case law has long held that “where a special relationship exists between the parties, such as with an innkeeper-guest, teacher-student or employer-employee, an affirmative duty to aid others in peril is imposed by law.” *Lee v. GNLV Corp.*, 117 Nev. 291, 295 (2001). The *Lee* Court also held that a party who is in “control of the premises’ is required to take reasonable affirmative steps to aid the party in peril.” *Id.*

Here, there is no evidence that Mr. Baiguen was at an increased risk for his *personal* injury of stroke merely by arriving at Defendants’ property to prepare to clock in for work. Mr. Baiguen was in Defendants’ garage when he was found by a co-worker and brought to the supervisor, Ms. Young. Ms. Young, after seeing Mr. Baiguen’s

condition and mental state, chooses to send him home instead of seeking medical help. Mr. Baiguen's position in this scenario is no different than if it was a guest or invitee on Defendants' premises. He faced the same risk as any customer of the property who was observed to be *in extremis* by employees of the hotel and was subsequently whisked from the property rather than offered medical assistance. Therefore, Defendants cannot show that Mr. Baiguen had an *increased risk* of injury due to being on Defendants' property, whether he was an employee or not, at the time he was beginning to suffer stroke symptoms and those symptoms were ignored by defendants' employees.

The injury that gives rise to the complaint in this case is not the stroke itself, but rather the failure of Defendants to render timely aid to him in the crucial early stages of the stroke. That failure to render aid did not arise out of the scope of Mr. Baiguen's employment, but rather because Defendants' employees breached their duty to render aid a "party in peril" on their property. *See Lee*, 117 Nev., at 295. As outlined above, it is clear that Defendants' failure to render aid could have happened to any person (such as a guest or invitee) on the property to that day and was not unique to employees only. Therefore it is clear that Defendants' failure to assist a person in medical peril - and resulting injury - was in no way related to an "increased risk" created by Mr. Baiguen's employment, and therefore his claim for such failure to act is not barred by the NIIA.

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

This matter most closely falls under NRAP 17(a)(14) as the principal issues raise questions of statewide public importance.

14. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

15. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice? NO

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from.** March 18, 2016

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

17. **Date written notice of entry of judgment or order serve:**

(a) Was service by

Delivery

Mail/electronic/fax

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

(a) specify the type of motion, and the date and method of service of the motion, and date of filing:

NRCP 50(b) Date of Filing

NRCP 52(b) Date of Filing

NRCP 59 Date of Filing

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

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

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

Was service by:

Delivery

Mail

19. **Date notice of appeal filed** April 14, 2016

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

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

NRAP 3A(b)(1)

NRS 38.205

NRAP 3A(b)(2)

NRS 233B.150

NRAP 3A(b)(3)

NRS 703.376

Other (specify)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Defendant's Motion for Summary Judgment granted on March 18, 2016 dispositively dismisses all claims and thus constitutes a final judgment entered in this civil action from which appeal may be taken under NRAP 3A(b)(1).

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

(a) Parties: Plaintiff Israel Baiguen
Defendant Harrah's Las Vegas LLC

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

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

Plaintiffs: Negligence and Negligence *per se*, dismissed by the District Court's Order March 18m 2016 granting Defendant's Motion for Summary Judgment.

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

Yes
 No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

Yes
 No

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

Yes
 No

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

N/A

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

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

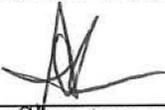
VERIFICATION

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

ISRAEL BAIGUEN
Name of Appellant

JEFFREY L. GALLIHER, ESQ. /ADRIAN A. KARIMI, ESQ
Name of counsel of record

March 10, 2016
Date


Signature of counsel of record

Nevada, Clark County
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 10th Day of May 2016, I served a copy of this completed docketing statement upon all counsel of record:

by personally serving it upon him/her; or

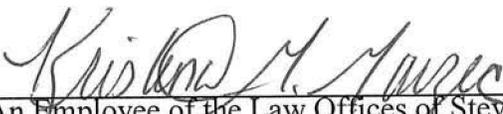
by mailing it by first class mail with sufficient postage prepaid to the following address(es)

Scott M. Mahoney, Esq.
FISHER & PHILLIPS LLP
300 S. Fourth Street Suite 1500
Las Vegas, Nevada 89101

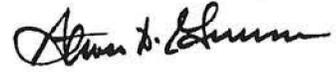
AND

email addressed to: smahoney@laborlawyers.com

Dated this 10th day of May 2016.


An Employee of the Law Offices of Steven M. Burris LLC

TAB 1


CLERK OF THE COURT

1 **COMP**
2 **STEVEN M. BURRIS, ESQ.**
3 Nevada Bar No. 000603
4 sb@steveburrislaw.com
5 **LAW OFFICES OF STEVEN M. BURRIS**
6 2810 W. Charleston Boulevard, Suite F-58
7 Las Vegas, Nevada 89102
8 (702) 258-6238 - Telephone
9 (702) 258-8280 - Facsimile

10 *Attorneys for Plaintiff*

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

13 * * *

14 ISRAEL BAIGUEN, an individual,
15
16 Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

17 v.

18 HARRAH'S LAS VEGAS, LLC, a Nevada
19 Domestic Limited-Liability Company, dba
20 HARRAH'S CASINO HOTEL, LAS VEGAS;
21 HARRAH'S LAS VEGAS INC. dba
22 HARRAH'S CASINO HOTEL, LAS VEGAS;
23 CAESARS ENTERTAINMENT
24 CORPORATION, a Nevada Foreign
25 Corporation, dba HARRAH'S CASINO
26 HOTEL, LAS VEGAS; DOES I through X,
27 inclusive; and, and ROE CORPORATIONS I
28 through X, inclusive,
29
30 Defendants.

31 **COMPLAINT**

32 COMES NOW Plaintiff, ISRAEL BAIGUEN, an individual, by and through his attorney of
33 record, STEVEN M. BURRIS, ESQ. of the LAW OFFICES OF STEVEN M. BURRIS, and for
34 his causes of action against the Defendants, and each of them, complains and alleges as follows:

35 **I.**

36 At all times relevant herein, Defendant HARRAH'S LAS VEGAS, LLC is and was a
37 business entity duly organized and existing under the laws of the State of Nevada and is and was
38

Law Offices Of
STEVEN M. BURRIS
A Limited Liability Corporation
2810 W. Charleston Boulevard
Suite F-58
Las Vegas, Nevada 89102

1 doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS VEGAS located
2 at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was the owner and/or
3 was in possession and/or control of the premises located at 3475 South Las Vegas Boulevard, Las
4 Vegas, Nevada 89109.

5 **II.**

6 At all times relevant herein, Defendant HARRAH'S LAS VEGAS INC. is and was a
7 business entity duly organized and existing under the laws of the State of Nevada and is and was
8 doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS VEGAS located
9 at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was the owner and/or
10 was in possession and/or control of the premises located at 3475 South Las Vegas Boulevard, Las
11 Vegas, Nevada 89109.

12 **III.**

13 At all times relevant herein, Defendant CAESARS ENTERTAINMENT CORPORATION
14 is and was a business entity duly organized and existing under the laws of the State of Nevada and
15 is and was doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS
16 VEGAS located at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was
17 the owner and/or was in possession and/or control of the premises located at 3475 South Las
18 Vegas Boulevard, Las Vegas, Nevada 89109.

19 **IV.**

20 That the true names or capacities, whether individual, corporate, associate or otherwise, of
21 the Defendants named herein as DOES I through X, inclusive, and ROE CORPORATIONS I
22 through X, inclusive, are unknown to the Plaintiff, who therefore sues said Defendants by such
23 fictitious names. Plaintiff is informed and believes and therefore alleges that each of the
24 Defendants designated herein as DOE or ROE is legally responsible in some manner for the events
25 and happenings herein referred to and caused damages proximately to Plaintiff as herein alleged,
26 and Plaintiff will ask leave of the Court to amend the Complaint to insert the true names and
27 capacities of DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,
28 when the same have been ascertained, and to join such Defendants in the action.

V.

1
2 On or about October 19, 2012, Plaintiff was employed at Defendants' Casino Hotel as a
3 porter. Upon information and belief, it is alleged that Plaintiff arrived, as usual, somewhat early
4 for work, around 3:35 p.m., and gathered in an area where he and other employees waited to 'clock
5 in' for the 4:00 p.m. shift. A co-employee noticed that Plaintiff vomited and assumed he was
6 drunk or hung over. After Plaintiff clocked in to work, it was noticed by co-workers that he was
7 slurring his speech. The matter was reported to a supervisor, who determined him to be drunk, and
8 took away his car keys. This supervisor reported the matter to a higher-up person/supervisor, who
9 ordered that Plaintiff be driven home and dropped off. This task was carried out by another co-
10 employee, who drove Plaintiff home and dropped him off. The employee who drove Plaintiff
11 home suggested that 911 be called, but he was informed that Plaintiff should just be dropped off at
12 his house, apparently under the belief that Plaintiff (who did not have a drinking problem, and who
13 did not have an alcoholic smell about him) was just drunk. Plaintiff was dropped off. On October
14 21, 2012, Plaintiff was contacted by his girlfriend, who noticed that his face was "crooked," he
15 could not talk, and that he was drooling or foaming at the mouth. She called 911, and Plaintiff
16 was taken to the hospital, where he was diagnosed with a major stroke, which has left him partially
17 paralyzed and permanently disabled.

18 VI.

19 There is a "golden window" of time in which to effectively diagnose and treat a stroke
20 when it first manifests itself. In this case, the stroke's first signs were at the Harrah's Hotel.
21 Despite Plaintiff's denials that he was drunk, the co-employees, supervisors, and or security
22 personnel "diagnosed" that he was drunk, and negligently, instead of calling 911 or an ambulance,
23 took away his keys and drove him to his house and dumped him off, where he suffered a major
24 stroke and was unable to call for help. The major stroke was proximately and/or legally caused
25 by, or worsened by, or the chances of avoiding or mitigating or treating same were significantly
26 decreased by, the delay in diagnosis and treatment caused by Defendants.

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VII.

The various staff, co-workers, supervisors, and or security, were working in the course and scope of their employment with Harrah's at the time of the relevant events, and therefore Defendants HARRAH'S LAS VEGAS, LLC, HARRAH'S LAS VEGAS, INC. and CAESARS ENTERTAINMENT CORPORATION are vicariously liable.

VIII.

The negligence of Defendants includes, but is not limited to the following:

- a. Mistakenly assuming or ascertaining that Plaintiff was drunk or otherwise intoxicated, and driving him home instead of calling for medical help;
- b. Not promptly calling for medical assistance;
- c. Not doing at least a cursory examination on Plaintiff;
- d. Not training staff, or having a protocol in place, to deal with persons suffering a stroke;
- e. Not following existing protocols regarding this or similar situations;
- f. Not following applicable workplace safety rules or employee safety rules;
- g. Failure to have in place effective communication protocols, procedures, or equipment to allow effective communications between employees and staff regarding this or similar situations; and,
- h. Allowing non qualified persons to make medical diagnosis.

IX.

As a proximate result of the above negligence and/or negligence per se, Plaintiff has suffered special damages, including: past and future medical and "life care planning" expenses; loss of household services; loss of income; loss of earning capacity; in excess of in excess of Ten Thousand Dollars (\$10,000.00). He has also suffered general damages including physical and mental disability; physical and mental pain and suffering; loss of enjoyment of life/hedonic damages; loss of household services; all of which are past, future and permanent; and in excess of in excess of Ten Thousand Dollars (\$10,000.00).

...

1 X.

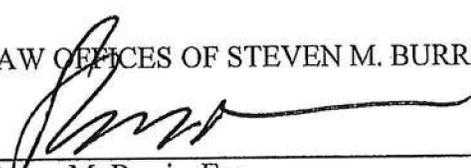
2 It has become necessary to hire an attorney, and Plaintiff is entitled to fees and costs.

3 **WHEREFORE**, Plaintiff, expressly reserving the right to amend this Complaint at time of
4 trial of the action herein to include all items of damage not yet ascertained, demands judgment
5 against Defendants as follows:

- 6 1. For general and compensatory damages against Defendants individually, jointly and
7 severally, in accordance with proof at trial, in excess of Ten Thousand Dollars
8 (\$10,000.00);
- 9 2. For special damages against Defendants individually, jointly and severally, in
10 accordance with proof at trial, in excess of Ten Thousand Dollars (\$10,000.00);
- 11 3. For an award of reasonable attorney's fees;
- 12 4. For the costs of suit incurred herein;
- 13 5. For prejudgment and post-judgment interest at the maximum amount allowed by
14 law; and,
- 15 6. For such other and further relief as the Court deems just and proper.

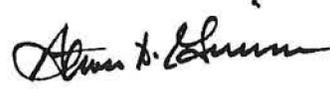
16 DATED this 14 day of October, 2014.

17 LAW OFFICES OF STEVEN M. BURRIS

18 By: 

19 Steven M. Burris, Esq.
20 Nevada Bar No. 000603
21 sb@steveburrislaw.com
22 2810 W. Charleston Boulevard, Suite F-58
23 Las Vegas, Nevada 89102
24 *Attorneys for Plaintiff*
25
26
27
28

TAB 2


CLERK OF THE COURT

1 **NEOJ**
2 FISHER & PHILLIPS LLP
3 SCOTT M. MAHONEY, ESQ.
4 Nevada Bar No. 1099
5 300 S. Fourth Street
6 Suite 1500
7 Las Vegas, NV 89101
8 Telephone: (702) 252-3131
9 Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

10 ISRAEL BAIGUEN, an individual,)
11) Case No. A-14-708544-C
12 Plaintiff,)
13 vs.) Dept. No. III
14 HARRAH'S LAS VEGAS, LLC, a Nevada)
15 Domestic Limited-Liability Company, dba)
16 HARRAH'S CASINO HOTEL, LAS)
17 VEGAS; HARRAH'S LAS VEGAS INC.)
18 dba HARRAH'S CASINO HOTEL, LAS)
19 VEGAS; CAESARS ENTERTAINMENT)
20 CORPORATION, a Nevada Foreign)
21 Corporation, dba HARRAH'S CASINO)
HOTEL, LAS VEGAS; DOES I through X,)
inclusive; and, and ROE CORPORATIONS)
I through X, inclusive,)
Defendants.)

NOTICE OF ENTRY OF ORDER

22
23 PLEASE TAKE NOTICE that an Order Granting Defendants' Motion for
24 Summary Judgment was entered in the above-captioned matter on March 18, 2016, a
25
26
27
28

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

1 copy of which is attached hereto.

2 Respectfully submitted,

3 FISHER & PHILLIPS LLP

4
5 /s/ Scott M. Mahoney, Esq.
6 SCOTT M. MAHONEY, ESQ.
7 300 South Fourth Street
8 Suite 1500
9 Las Vegas, Nevada 89101
10 Attorneys for Defendants

11 **CERTIFICATE OF SERVICE**

12 Pursuant to NRCPC 5(b), I hereby certify service of the foregoing Notice of
13 Entry of Order was made this date by electronic filing and/or service with the Eighth
14 Judicial District Court and by mailing a

15 Jeff Galliher, Esq.
16 Law Offices of Steven M. Burris
17 2810 W. Charleston Blvd., Suite F-58
18 Las Vegas, NV 89102

19 Dated: March 18, 2016

20 By: /s/ Lorraine James-Newman
21 An employee of Fisher & Phillips LLP


CLERK OF THE COURT

1 OGSJ
2 FISHER & PHILLIPS LLP
3 SCOTT M. MAHONEY, ESQ.
4 Nevada Bar No. 1099
5 300 S. Fourth Street
6 Suite 1500
7 Las Vegas, NV 89101
8 Telephone: (702) 252-3131
9 Facsimile: (702) 252-7411
10 Attorneys for Defendants

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

13 ISRAEL BAIGUEN, an individual,)
14) Case No. A-14-708544-C
15 Plaintiff,)
16) Dept. No. III
17 vs.)
18)
19 HARRAH'S LAS VEGAS, LLC, a Nevada) Date of Hearing: 2/10/16
20 Domestic Limited-Liability Company, dba)
21 HARRAH'S CASINO HOTEL, LAS) Time of Hearing: 9:00 a.m.
22 VEGAS; HARRAH'S LAS VEGAS INC.)
23 dba HARRAH'S CASINO HOTEL, LAS)
24 VEGAS; CAESARS ENTERTAINMENT)
25 CORPORATION, a Nevada Foreign)
26 Corporation, dba HARRAH'S CASINO)
27 HOTEL, LAS VEGAS; DOES I through X,)
28 inclusive; and, and ROE CORPORATIONS)
I through X, inclusive,)
Defendants.)

29 **ORDER GRANTING DEFENDANTS'**
30 **MOTION FOR SUMMARY JUDGMENT**

31 Defendants' Motion for Summary Judgment (the "Motion") having come on
32 regularly for hearing on February 10, 2016 at the hour of 9:00 a.m. in Department III of
33 the above-entitled Court, the Honorable Douglas W. Herndon presiding, Plaintiff being
34 represented by Jeffrey L. Galliher, Esq. and Defendants being represented by Scott M.
35 Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition thereto

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

1 and Defendants' Reply, as well as the arguments made by counsel, including Plaintiff's
2 argument that the increased risk test set forth in *Rio All-Suite Hotel and Casino v.*
3 *Phillips*, 240 P.3d 2 (Nev. 2010), should apply, the Court being fully advised in the
4 premises and good cause appearing therefor, the Court makes the following findings of
5 undisputed material facts and legal determinations:
6

7 1. Plaintiff does not contest that Defendant, Caesars Entertainment
8 Corporation ("Caesars"), was at all relevant times a parent corporation of Harrah's Las
9 Vegas, LLC ("Harrah's") and that Harrah's, not Caesars, was the employer of Plaintiff
10 and the other employees that worked at Harrah's Casino Hotel, Las Vegas. Caesars
11 therefore had no employment or other relevant legal relationship with Plaintiff.

12 2. Harrah's could have no liability to Plaintiff until such point in time as it
13 came into contact with him, and Harrah's had no contact with Plaintiff until he arrived
14 at work. There is no genuine issue of material fact that the alleged negligence of
15 Harrah's employees for which Plaintiff seeks to recover damages is based on events
16 that are alleged to have occurred in the workplace and arose out of Plaintiff's
17 employment with Harrah's.
18

19 3. Even if Plaintiff were correct that there is a disputed issue of fact
20 whether he clocked-in for work on October 19, 2012, clocking-in is not determinative
21 of whether the injuries for which he seeks to recover damages occurred in the course of
22 his employment. An employee is acting in the course of employment once he or she
23 arrives on the employer's premises and commences doing things which are a prelude to
24 starting the workday. Whether or not Plaintiff had clocked-in on October 19, 2012,
25 there is no genuine dispute of material fact that by the time the alleged actions for
26 which Plaintiff seeks to recover occurred, he had arrived in the area of the hotel where
27 he undertakes the activities to commence his workday, and started doing these
28

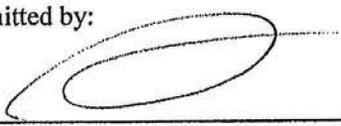
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1 preliminary activities, such as being in the line in which employees stand to get their
2 radio and keys, such that he was acting in the course of his employment.

3 4. Plaintiff's negligence claim is preempted by worker's compensation as a
4 matter of law because the injuries for which he seeks to recover arose out of and in the
5 course of his employment, regardless of whether Plaintiff actually filed a worker's
6 compensation claim.
7

8 Based on the foregoing:
9 IT IS HEREBY ORDERED the Motion is granted and summary judgment is
10 entered in favor of Defendants on the claim asserted by Plaintiff.

11 DATED this 14 day of March 2016.

12
13
14
15 Submitted by: 
16
17


DISTRICT COURT JUDGE

18 Scott M. Mahoney, Esq.
19 Fisher & Phillips LLP
20 300 South Fourth Street
21 Suite 1500
22 Las Vegas, NV 89101
23 Attorneys for Defendants

24 Approved as to form and content:

25 By: 
26 Jeffrey L. Gallner, Esq.
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28 2810 West Charleston
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Las Vegas, Nevada 89102
Attorneys for Plaintiff