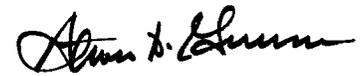


1 WILLIAM R. BRENSKE, ESQ.
Nevada Bar No. 1806
2 JENNIFER R. ANDREEVSKI, ESQ.
Nevada Bar No. 9095
3 RYAN D. KRAMETBAUER, ESQ.
Nevada Bar No. 12800
4 BRENSKE & ANDREEVSKI
3800 Howard Hughes Parkway, Suite 500
5 Las Vegas, Nevada 89169
Telephone: (702) 385-3300
6 Facsimile: (702) 385-3823
7 Email: wbrenske@hotmail.com
8 *Attorneys for Plaintiff,*
Charles Schueler



CLERK OF THE COURT

Electronically Filed
Dec 13 2016 11:23 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 CHARLES SCHUELER,
12 Plaintiff,

13 v.

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

19 Defendants.

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

NOTICE OF APPEAL

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Brenske & Andreevski
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 385-3300 · Fax (702) 385-3823

1 Notice is hereby given that Plaintiff Charles Schueler hereby appeals to the Supreme Court
2 of Nevada from the Order Granting MGM Grand's Motion for Reconsideration on Motion for
3 Judgment on the Pleadings entered August 23, 2016 and certified as final pursuant to Nevada Rule
4 of Civil Procedure 54(b) on November 4, 2016 - notice of which was served on November 7, 2016.

5 DATED this 29th day of November, 2016.

6
7 **BRENSKE & ANDREEVSKI**

8 

9 WILLIAM R. BRENSKE, ESQ.

10 Nevada Bar No. 1806

JENNIFER R. ANDREEVSKI, ESQ.

11 Nevada Bar No. 9095

12 3800 Howard Hughes Parkway

13 Las Vegas, Nevada 89169

14 *Attorneys for Plaintiffs,*

15 *Ricky and Judy Busick*

16 **CERTIFICATE OF SERVICE**

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

22 I served the foregoing document described as "**NOTICE OF APPEAL**" on this 30th day of
23 November, 2016, to all interested parties as follows:

24 BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed
25 envelope addressed as follows:

26 BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document
27 this date via telecopier to the facsimile number shown below:
28

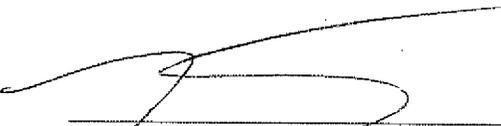
Brenske & Andreevski
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 385-3300 - Fax (702) 385-3823

1 BY ELECTRONIC SERVICE: by electronically filing and serving the foregoing document
2 with the Eighth Judicial District Court's WizNet system:

3 Timothy F. Hunter
4 RAY LEGO & ASSOCIATES
5 7450 Arroya Crossing Party, Suite 250
6 Las Vegas, Nevada 89113
7 *Attorney For Defendant,*
8 *Ad Art, Inc.*
9 **Facsimile No.: 702-270-4602**

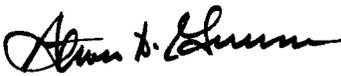
LeAnn Sanders
Edward Silverman
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
7401 West Charleston Blvd.
Las Vegas, Nevada 89117
Attorneys for Defendant,
3A Composites USA Inc., a/k/a
Alucobond Technologies Corporation
Facsimile No.: 702-385-7000

10 Riley A. Clayton
11 HALL JAFFE & CLAYTON, LLP
12 7425 Peak Drive
13 Las Vegas, Nevada 89128
14 *Attorneys for Defendant,*
15 *MGM Grand Hotel, LLC,*
16 *d/b/a MGM Grand*
17 **Facsimile No.: 702-316-4114**


An employee of the law office of
Brenske & Andreevski

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1 WILLIAM R. BRENSKE, ESQ.
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5 Facsimile: (702) 385-3823
6 Email: wbrenske@hotmail.com
Attorneys for Plaintiff,
7 Charles Schueler



CLERK OF THE COURT

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 CHARLES SCHUELER,

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

11 Plaintiff,

12 v.

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

17 Defendants.
18

CASE APPEAL STATEMENT

- 19 1. Name of appellant filing this case appeal statement: Charles Schueler.
- 20 2. Identify the judge issuing the decision, judgment, or order appealed from: Hon.
21 Michael P. Villani, District Court Judge, Eighth Judicial District Court for Clark County, Nevada.
- 22 3. Identify each appellant and the name and address of counsel for each appellant:
23 Charles Schuler, Appellant, is represented by William R. Brenske, Jennifer R. Andreevski, and
24 Ryan D. Krametbauer of Brenske & Andreevski, 3800 Howard Hughes Parkway, Suite 500, Las
25 Vegas, Nevada, 89169.
- 26 4. Identify each respondent and the name and address of appellate counsel, if known,
27 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much
28

Brenske & Andreevski
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 385-3300 · Fax (702) 385-3823

1 and provide the name and address of that respondent's trial counsel): MGM Grand Hotel, LLC d/b/a
2 MGM Grand, Respondent, was represented by Riley A. Clayton and Ryan M. Venci of Hall Jaffe &
3 Clayton, LLP, 7425 Peak Drive, Las Vegas, Nevada 89128, during the proceedings before the
4 Eighth Judicial District Court for Clark County, Nevada. It is unknown if the above-named counsel
5 will continue to represent Respondent during the appellate process.

6
7 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
8 licensed to practice law in Nevada and, if so, whether the district court granted that attorney
9 permissions to appear under SCR 42 (attach a copy of any district court order granting such
10 permission): All attorneys listed in questions 3 and 4 above are licensed to practice law in Nevada.

11 6. Indicate whether appellant was represented by appointed or retained counsel in the
12 district court: Appellant was represented by retained counsel in the district court.

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

15 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
16 date of entry of the district court order granting such leave: Appellant neither applied for, nor was
17 granted, leave to proceed in forma pauperis.

18 9. Indicate the date the proceedings commenced in the district court (e.g., date
19 complaint, indictment, information, or petition was filed): The Complaint was filed in the Eighth
20 Judicial District Court for Clark County, Nevada on July 30, 2015.

21 10. Provide a brief description of the nature of the action and result in the district court,
22 including the type of judgment or order being appealed and the relief granted by the district court:
23 Charles Schueler sued MGM Grand, LLC for premises liability, after he fell through the floor of the
24 marquee sign while replacing the LED screen. He also sued Ad Art, Inc. and 3A Composites USA,
25 Inc. for product liability. MGM Grand, LLC filed a motion for judgment on the pleadings arguing
26
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1 it had no duty to protect Mr. Schuler from what it called an obvious danger, or in the alternative, it
2 was Mr. Schueler's statutory employer and therefore not liable for any harms he may have suffered.
3 Initially, the District Court denied MGM Grand, LLC's motion indicating the collapse of the floor
4 of the sign was not an open and obvious danger, and that Mr. Schueler was not performing work
5 normally performed by MGM employees and therefore MGM was not his statutory employer.
6 Without citing any new evidence or legal authority, MGM Grand, LLC filed a Motion for
7 Reconsideration. The Court granted that motion and ruled MGM Grand, LLC was Mr. Schueler's
8 statutory employer and should be dismissed. The Court certified that judgment as final pursuant to
9 a motion filed by MGM and unopposed by all parties.
10

11 11. Indicate whether the case has previously been the subject of an appeal to or original
12 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of
13 the prior proceeding: This case was not previously the subject of an appeal or an original writ
14 proceeding.
15

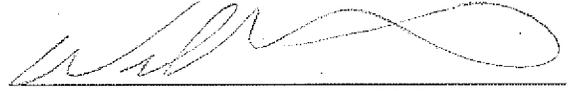
16 12. Indicate whether this appeal involves child custody or visitation: This appeal does
17 not involve child custody or visitation.

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1 13. If this is a civil case, indicate whether this appeal involves the possibility of
2 settlement: Given Respondent was dismissed on the pleadings, it is Appellant's belief that it is
3 highly unlikely this appeal may settle.

4 DATED this 29th day of November, 2016.

5 **BRENSKE & ANDREEVSKI**

6 

7 WILLIAM R. BRENSKE, ESQ.

8 Nevada Bar No. 1806

9 JENNIFER R. ANDREEVSKI, ESQ.

10 Nevada Bar No. 9095

3800 Howard Hughes Parkway

Las Vegas, Nevada 89169

Attorneys for Plaintiffs,

Ricky and Judy Busick

11
12
13
14 **CERTIFICATE OF SERVICE**

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

20
21 I served the foregoing document described as "**CASE APPEAL STATEMENT**" on this
22 30th day of November, 2016 to all interested parties as follows:

23 BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed
24 envelope addressed as follows:

25 BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document
26 this date via telecopier to the facsimile number shown below:
27
28

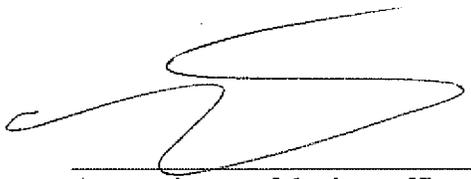
Brenske & Andreevski
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 385-3300 · Fax (702) 385-3823

1 BY ELECTRONIC SERVICE: by electronically filing and serving the foregoing document
2 with the Eighth Judicial District Court's WizNet system:

3 Timothy F. Hunter
4 RAY LEGO & ASSOCIATES
5 7450 Arroya Crossing Party, Suite 250
6 Las Vegas, Nevada 89113
7 *Attorney For Defendant,*
8 *Ad Art, Inc.*
9 **Facsimile No.: 702-270-4602**

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

10 Riley A. Clayton
11 HALL JAFFE & CLAYTON, LLP
12 7425 Peak Drive
13 Las Vegas, Nevada 89128
14 *Attorneys for Defendant,*
15 *MGM Grand Hotel, LLC,*
16 *d/b/a MGM Grand*
17 **Facsimile No.: 702-316-4114**



18 An employee of the law office of
19 Brenske & Andreevski
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Brenske & Andreevski
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 385-3300 · Fax (702) 385-3823

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

§
§
§
§
§

Location: **Department 17**
Judicial Officer: **Villani, Michael**
Filed on: **07/30/2015**
Cross-Reference Case Number: **A722391**

CASE INFORMATION

Case Type: **Negligence - Other Negligence**
Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-15-722391-C
Court	Department 17
Date Assigned	07/30/2015
Judicial Officer	Villani, Michael

PARTY INFORMATION

Plaintiff	Schueler, Charles	Brenske, William R. <i>Retained</i> 7023853300(W)
Defendant	3A Composites USA Inc Removed: 04/08/2016 Dismissed	
	AD Art Inc	Hunter, Timothy F. <i>Retained</i> 702-479-4350(W)
	MGM Grand Hotel, LLC	
	MGM Resorts International	Clayton, Riley A <i>Retained</i> 7023164111(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

07/30/2015	 Complaint Filed By: Plaintiff Schueler, Charles	
08/27/2015	 Summons Filed by: Plaintiff Schueler, Charles <i>Summons - MGM Resorts International dba MGM Grand</i>	
08/27/2015	 Summons Filed by: Plaintiff Schueler, Charles <i>Summons - MGM Grand Hotel LLC dba MGM Grand and MGM Resorts International dba MGM Grand, AD Art Inc</i>	
09/17/2015	 Answer to Complaint Filed by: Defendant MGM Grand Hotel, LLC <i>Defendant MGM Grand Hotel, LLC, d/b/a MGM Grand's Answer to Plaintiff's Complaint</i>	

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

09/17/2015  Demand for Jury Trial
Filed By: Defendant MGM Grand Hotel, LLC
Demand for Trial by Jury

09/17/2015  Initial Appearance Fee Disclosure
Filed By: Defendant MGM Grand Hotel, LLC
Initial Appearance Fee Disclosure (NRS Chapter 19)

10/09/2015  Certificate of Service
Filed by: Plaintiff Schueler, Charles
Certificate Of Service

10/15/2015  Summons
Filed by: Plaintiff Schueler, Charles
Summons

10/23/2015  Answer to Complaint
Filed by: Defendant 3A Composites USA Inc
3A Composites USA Inc., f/k/a Alucobond Technologies Corporation's Answer to Complaint

10/23/2015  Initial Appearance Fee Disclosure
Filed By: Defendant 3A Composites USA Inc
Initial Appearance Fee Disclosure (NRS Chapter 19)

10/23/2015  Demand for Jury Trial
Filed By: Defendant 3A Composites USA Inc
Demand for Jury Trial

10/23/2015  Disclosure Statement
Party: Defendant 3A Composites USA Inc
3A Composites USA Inc., f/k/a Alucobond Technologies Corporation's NRCP 7.1 Disclosure Statement

10/26/2015  Commissioners Decision on Request for Exemption - Granted
Commissioner's Decision on Request for Exemption

10/28/2015  Affidavit
Filed By: Plaintiff Schueler, Charles
Affidavit Of Sonya Sellek

10/28/2015  Declaration
Filed By: Plaintiff Schueler, Charles
Declaration Of Non-Service

11/03/2015  Notice of Early Case Conference
Filed By: Plaintiff Schueler, Charles
Notice Of Early Case Conference

11/10/2015  Amended Notice of Early Case Conference
Filed By: Plaintiff Schueler, Charles
First Amended Notice Of Early Case Conference

11/12/2015

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

-  Summons
Filed by: Plaintiff Schueler, Charles
Summons
- 11/17/2015  Initial Appearance Fee Disclosure
Filed By: Defendant AD Art Inc
Defendant, Ad Art, Inc.'s, Initial Appearance Fee Disclosure (NRS Chapter 19)
- 11/17/2015  Disclosure Statement
Party: Defendant AD Art Inc
Defendant, Ad Art, Inc.'s, Rule 7.1 Disclosure
- 11/17/2015  Demand for Jury Trial
Filed By: Defendant AD Art Inc
Defendant, Ad Art, Inc.'s, Demand for Jury Trial
- 11/17/2015  Answer
Filed By: Defendant AD Art Inc
Defendant, Ad Art, Inc.'s, Answer to Plaintiff's Complaint
- 11/30/2015  Production of Documents
Filed by: Plaintiff Schueler, Charles
Plaintiff's Production Of Documents And List Of Witnesses Pursuant To NRCP 16.1
- 12/11/2015  Motion for Judgment
Filed By: Defendant MGM Grand Hotel, LLC
MGM Grand's Motion for Judgment on the Pleading
- 12/14/2015  Joint Case Conference Report
Filed By: Plaintiff Schueler, Charles
Plaintiff And Defendants' MGM Grand Hotel, LLC, d/b/a MGM Grand; MGM Resorts International d/b/a MGM; And 3A Composites USA Inc., a/k/a Alucobond Technologies Corporation's Joint Case Conference Report
- 01/27/2016  Notice of Early Case Conference
Filed By: Plaintiff Schueler, Charles
Notice Of Supplemental Early Case Conference
- 01/27/2016  Motion to Dismiss
Filed By: Defendant 3A Composites USA Inc
Defendant 3A Composites USA Inc.'s Motion to Dismiss For Lack of Personal Jurisdiction
- 02/01/2016  Opposition
Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Opposition To MGM Grand's Motion For Judgment On The Pleading: Alternative Motion For Additional Discovery Pursuant To NRCP 56(f)
- 02/01/2016  Supplement
Filed by: Plaintiff Schueler, Charles
First Supplement To Plaintiff's Production Of Documents And List Of Witnesses Pursuant To NRCP 16.1
- 02/05/2016  Reply in Support
Filed By: Defendant MGM Grand Hotel, LLC

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

MGM Grand' Reply in Support of Motion for Judgment on the Pleading

- 02/10/2016  **Motion for Judgment** (3:00 AM) (Judicial Officer: Villani, Michael)
02/10/2016, 03/09/2016
MGM Grand's Motion for Judgment on the Pleading
- 02/16/2016  Opposition
Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Opposition To Defendant 3A Composites USA Inc.'s Motion To Dismiss For Lack Of Personal Jurisdiction; Alternative Request To Conduct Additional Jurisdictional Discovery Pursuant To NRC P 56(f)
- 03/02/2016  Notice of Entry of Order
Filed By: Defendant MGM Grand Hotel, LLC
Notice of Entry of Order Regarding MGM Grand's Motion for Judgment on the Pleading
- 03/02/2016  Order
Filed By: Defendant MGM Grand Hotel, LLC
Order Regarding MGM Grand's Motion for Judgment on the Pleading
- 03/02/2016  Reply in Support
Filed By: Defendant 3A Composites USA Inc
Defendant 3A Composites USA, Inc.'s Reply in Support of Motion to Dismiss for Lack of Personal Jurisdiction
- 03/08/2016  Notice to Appear for Discovery Conference
Notice to Appear for Discovery Conference
- 03/09/2016 **Motion to Dismiss** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction
- 03/09/2016  **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction . . . MGM Grand's Motion for Judgment on the Pleading
- 03/10/2016  Notice of Deposition
Filed By: Plaintiff Schueler, Charles
Notice Of Deposition Of Custodian Of Records Of Yesco Las Vegas
- 03/15/2016  Supplemental Joint Case Conference Report
- 03/16/2016  Notice
Filed By: Plaintiff Schueler, Charles
Notice Of Firm Name And Address Change
- 03/16/2016  Stipulation and Order for Dismissal Without Prejudice
Filed By: Defendant MGM Grand Hotel, LLC
Stipulation and Order to Dismiss Defendant MGM Resorts International dba MGM Grand, Only, Without Prejudice
- 03/16/2016 **Order of Dismissal Without Prejudice** (Judicial Officer: Villani, Michael)
Debtors: Charles Schueler (Plaintiff)
Creditors: MGM Resorts International (Defendant)
Judgment: 03/16/2016, Docketed: 03/23/2016

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

03/21/2016  Notice of Entry of Stipulation and Order
Filed By: Defendant MGM Grand Hotel, LLC
Notice of Entry of Stipulation and Order to Dismiss Defendant MGM Resorts International dba MGM Grand, Only, Without Prejudice

03/23/2016  **Decision** (2:00 PM) (Judicial Officer: Villani, Michael)
Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction . . . MGM Grand's Motion for Judgment on the Pleading

03/31/2016  Subpoena Duces Tecum
Filed by: Plaintiff Schueler, Charles
Subpoena - Civil Duces Tecum

04/08/2016  Notice of Entry of Order
Filed By: Defendant 3A Composites USA Inc
Notice of Entry of Order Granting Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction

04/08/2016  **Decision** (9:30 AM) (Judicial Officer: Villani, Michael)
Decision: Defendant MGM Grand s Motion for Judgment on the Pleading

04/08/2016  Order Granting Motion
Filed By: Defendant 3A Composites USA Inc
Order Granting Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction

04/08/2016 **Order of Dismissal With Prejudice** (Judicial Officer: Villani, Michael)
Debtors: Charles Schueler (Plaintiff)
Creditors: 3A Composites USA Inc (Defendant)
Judgment: 04/08/2016, Docketed: 04/15/2016

04/12/2016  **Discovery Conference** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

04/18/2016  Motion to Reconsider
Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Motion For Reconsideration On Defendant 3A Composites USA Inc.'s Motion To Dismiss For Lack Of Personal Jurisdiction

04/19/2016  Certificate of Service
Filed by: Plaintiff Schueler, Charles
Certificate Of Service

05/02/2016  Opposition to Motion
Filed By: Defendant 3A Composites USA Inc
Defendant 3A Composites USA Inc.'s Opposition to Plaintiff's Motion for Reconsideration on 3A's Motion to Dismiss for Lack of Personal Jurisdiction

05/06/2016  Order Denying Motion
Order Denying Defendant MGM Grand's Motion for Judgment on the Pleading

05/10/2016  Scheduling Order
Scheduling Order

05/16/2016  Motion to Reconsider

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

Filed By: Defendant MGM Grand Hotel, LLC
MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings

05/18/2016



Reply in Support

Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Reply In Support Of His Motion For Reconsideration On Defendant 3A Composites USA Inc.'s Motion To Dismiss For Lack Of Personal Jurisdiction

05/20/2016



Initial Appearance Fee Disclosure

Filed By: Defendant AD Art Inc
Defendant, Ad Art, Inc.'s, Initial Appearance Fee Disclosure for Motion for Summary Judgment

05/20/2016



Motion for Summary Judgment

Filed By: Defendant AD Art Inc
Defendant Ad Art, Inc.'s Motion for Summary Judgment

05/25/2016



Motion For Reconsideration (3:00 AM) (Judicial Officer: Villani, Michael)

Plaintiff Charles Schueler's Motion for Reconsideration on Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction

05/27/2016



Order Setting Civil Jury Trial

Order Setting Civil Jury Trial and Calendar Call

06/03/2016



Opposition to Motion

Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Opposition to MGM Grand's Motion for Reconsideration of its Motion For Judgment on the Pleading

06/09/2016



Opposition to Motion For Summary Judgment

Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Opposition To Ad Art, Inc's Motion For Summary Judgment; Alternative Motion For Additional Discovery Pursuant To NRCP 56(f)

06/14/2016



Discovery Commissioners Report and Recommendations

Discovery Commissioners Report and Recommendations

06/14/2016



Reply in Support

Filed By: Defendant MGM Grand Hotel, LLC
Reply in Support of MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings

06/14/2016

Sanctions (Judicial Officer: Villani, Michael)
Debtors: Charles Schueler (Plaintiff)
Creditors: Legal Aid of Southern Nevada (Other)
Judgment: 06/14/2016, Docketed: 06/21/2016
Total Judgment: 50.00

06/16/2016



Reply in Support

Filed By: Defendant AD Art Inc
Defendant Ad Art, Inc.'s Reply in Support of Motion for Summary Judgment

06/22/2016



Motion For Reconsideration (3:00 AM) (Judicial Officer: Villani, Michael)

06/22/2016, 07/13/2016
MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

06/22/2016  **Motion for Summary Judgment** (8:30 AM) (Judicial Officer: Vega, Valorie J.)
Defendant Ad Art, Inc.'s Motion for Summary Judgment

07/22/2016  Supplement
Filed by: Plaintiff Schueler, Charles
Second Supplement To Plaintiff's Production Of Documents And List Of Witnesses Pursuant TO NRCP 16.1

08/15/2016  Motion for Clarification
Filed By: Defendant 3A Composites USA Inc
Defendant 3A Composites USA's Motion for Clarification regarding Plaintiff's Motion for Reconsideration

08/23/2016  Order Granting Motion
Filed By: Defendant MGM Grand Hotel, LLC
Order Granting MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings

08/23/2016 **Order of Dismissal** (Judicial Officer: Villani, Michael)
Debtors: Charles Schueler (Plaintiff)
Creditors: MGM Grand Hotel, LLC (Defendant)
Judgment: 08/23/2016, Docketed: 08/30/2016

08/24/2016  Notice of Entry of Order
Filed By: Defendant MGM Grand Hotel, LLC
Notice of Entry of Order Granting MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings

09/02/2016  Opposition to Motion
Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Opposition To Defendant 3A Composites USA Inc.'s Motion For Clarification Regarding Plaintiff's Motion For Reconsideration

09/14/2016  Notice of Deposition
Filed By: Plaintiff Schueler, Charles
First Amended Notice Of Deposition Of Custodian Of Records Of Yesco Las Vegas

09/14/2016  Motion
Filed By: Defendant MGM Grand Hotel, LLC
Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b)

09/14/2016  Reply in Support
Filed By: Defendant 3A Composites USA Inc
Reply in Support of 3A's Motion for Clarification Regarding Plaintiff's Motion for Reconsideration

09/21/2016  **Motion for Clarification** (3:00 AM) (Judicial Officer: Villani, Michael)
Defendant 3A Composites USA's Motion for Clarification regarding Plaintiff's Motion for Reconsideration

09/21/2016  Notice of Non Opposition
Filed By: Plaintiff Schueler, Charles
Plaintiff Charles Schueler's Notice Of No Opposition To Defendant MGM Grand Hotel, LLC D/B/A MGM Grand's Motion To Certify Judgment As Final Pursuant To NRCP 54(b)

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

09/28/2016  Order
Filed By: Plaintiff Schueler, Charles
Order Re: Plaintiff Charles Schueler's Motion For Reconsideration On Defendant 3A Composites USA Inc's Motion To Dismiss For Lack Of Personal Jurisdiction

09/29/2016  Notice of Entry of Order
Filed By: Plaintiff Schueler, Charles
Notice Of Entry Of Order

10/03/2016  Subpoena Duces Tecum
Filed by: Plaintiff Schueler, Charles
Subpoena - Civil Duces Tecum

10/10/2016  Stipulation and Order
Filed by: Plaintiff Schueler, Charles
Stipulation And Order To Continue Trial Setting And Amended Discovery Deadlines (Before the District Court Judge)

10/11/2016  Notice of Entry of Order
Filed By: Plaintiff Schueler, Charles
Notice Of Entry Of Order Re Stipulation And Order To Continue Trial Setting And Amend Discovery Deadlines

10/14/2016  Order Setting Civil Jury Trial
Order Setting Civil Jury Trial and Calendar Call

10/14/2016  Certificate of Service
Filed by: Plaintiff Schueler, Charles
Certificate of Service

10/19/2016 **Motion** (3:00 AM) (Judicial Officer: Villani, Michael)
Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b)

10/24/2016  **Minute Order** (9:30 AM) (Judicial Officer: Villani, Michael)
Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b)

10/27/2016  Supplement to List of Witnesses & Documents
Party: Plaintiff Schueler, Charles
Third Supplement To Plaintiff's Production Of Documents And List Of Witnesses Pursuant To NRCP 16.1

11/04/2016  Order Granting Motion
Filed By: Defendant MGM Grand Hotel, LLC
Order on Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b)

11/07/2016  Notice of Entry of Order
Filed By: Defendant MGM Grand Hotel, LLC
Notice of Entry of Order on Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b)

11/22/2016  Deposition Subpoena
Filed By: Plaintiff Schueler, Charles

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-722391-C

*Deposition Subpoena (Duces Tecum) Of Defendant 3A Composites USA Inc. (Subjects 1 - 4)
Pursuant To NRCPC 30(B)(6)*

11/22/2016	 Notice of Deposition Filed By: Plaintiff Schueler, Charles <i>Plaintiff's Notice Of Deposition Of Steve Anderson</i>
11/22/2016	 Notice of Deposition Filed By: Plaintiff Schueler, Charles <i>Plaintiff's Notice Of Deposition Of Doug Robinson</i>
11/22/2016	 Notice of Deposition Filed By: Plaintiff Schueler, Charles <i>Plaintiff's Notice Of Deposition Of Herb Larsen</i>
11/30/2016	 Notice of Appeal Filed By: Plaintiff Schueler, Charles <i>Notice of Appeal</i>
11/30/2016	 Case Appeal Statement Filed By: Plaintiff Schueler, Charles <i>Case Appeal Statement</i>
04/05/2017	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Stipulation and Order</i>
04/17/2017	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Stipulation and Order</i>
08/23/2017	Calendar Call (9:00 AM) (Judicial Officer: Villani, Michael)
09/05/2017	Jury Trial (10:00 AM) (Judicial Officer: Villani, Michael)

DATE

FINANCIAL INFORMATION

Defendant 3A Composites USA Inc	
Total Charges	244.00
Total Payments and Credits	244.00
Balance Due as of 12/5/2016	0.00
Defendant AD Art Inc	
Total Charges	451.00
Total Payments and Credits	451.00
Balance Due as of 12/5/2016	0.00
Defendant MGM Grand Hotel, LLC	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 12/5/2016	0.00
Plaintiff Schueler, Charles	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 12/5/2016	0.00

DISTRICT COURT CIVIL COVER SHEET

XVII

Clark

County, Nevada

Case No. _____

(Original by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Charles Schuster	MGM GRAND HOTEL, LLC, d/b/a MGM GRAND; MGM RESORTS INTERNATIONAL, d/b/a MGM GRAND; AD ART, INC.; and SA COMPOSITES USA INC., dba ALLGLOBOND TECHNOLOGIES CORPORATION
Attorney (name/address/phone):	Attorney (name/address/phone):
WILLIAM R. BRENSKE, ESQ. 630 South 3rd Street Las Vegas, NV 89101	UNKNOWN

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

Civil Case Filing Types		
Real Property	Negligence	Torts
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	<input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<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	Construction Defect & Contract	Judicial Review/Appeal
<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 <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 <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		Other Civil Filing
<input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

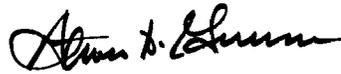
Business Court filings should be filed using the Business Court civil coversheet.

July 30th, 2015

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **OGM**
2 RILEY A. CLAYTON
3 Nevada Bar No. 005260
4 rclayton@lawhjc.com

5 **HALL JAFFE & CLAYTON, LLP**
6 7425 PEAK DRIVE
7 LAS VEGAS, NEVADA 89128
8 (702) 316-4111
9 FAX (702)316-4114

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

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

14 CHARLES SCHUELER,
15 Plaintiff,

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

16 v.

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

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

21 Defendants.

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

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

28 conclusions of Law, and Order.

RECEIVED BY
DEPT 17 ON
AUG 18 2016

1 **I. FINDINGS OF FACT**

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

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

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

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

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

17 **II. CONCLUSIONS OF LAW**

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

24 2. The Nevada Supreme Court has provided guidance regarding whether a landowner
25 qualifies for immunity from suit under Nevada's workers compensation law when the landowner hires a
26 licensed contractor to perform work on its property. *See, Richards v. Republic Silver State Disposal,*
27 *Inc.*, 122 Nev. 1213, 148 P. 684 (2006). In *Richards*, an injured employee, Richards, brought suit

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

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

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

23 **III. ORDER**

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

- 25 1. The MGM's Motion for Reconsideration on the Judgment on the Pleadings is
26 GRANTED;
- 27 2. The MGM is a "statutory employer" under Nevada's workers compensation law and is,
28

1 therefore, immune from suit by Schueler.

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

3 Dated this 22 of Aug, 2016.

4
5 

DISTRICT COURT JUDGE

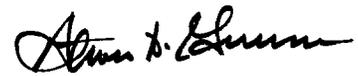
BW

6 Submitted by:

7 HALL JAFFE & CLAYTON, LLP

8
9 By 

RILEY A. CLAYTON
Nevada Bar No. 005260
7425 Peak Drive
Las Vegas, Nevada 89128
Attorneys for Defendant,
MGM Grand Hotel, LLC, d/b/a MGM Grand



CLERK OF THE COURT

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2 RILEY A. CLAYTON
3 Nevada Bar No. 005260
4 relayton@lawhjc.com

5 HALL JAFFE & CLAYTON, LLP
6 7425 PEAK DRIVE
7 LAS VEGAS, NEVADA 89128
8 (702) 316-4111
9 FAX (702)316-4114

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

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,
15 Plaintiff,

16 v.

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

27 Defendants.

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

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

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

31 ///

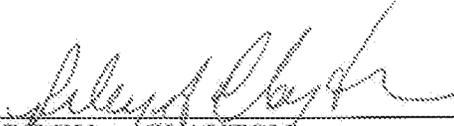
32 ///

33 ///

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

2 DATED this 21st day of August, 2016.

3 HALL JAFFE & CLAYTON, LLP

4
5 By 

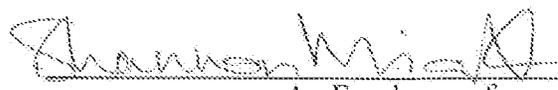
6 RILEY A. CLAYTON
7 Nevada Bar No. 005260
8 7425 Peak Drive
9 Las Vegas, Nevada 89128
10 Attorneys for Defendant,
11 MGM Grand Hotel, LLC, d/b/a MGM Grand

12 **CERTIFICATE OF SERVICE**

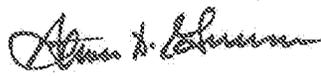
13 Pursuant to NRCPC 5(b) and EDCR 7.26, I certify that on the 21st day of August 2016, I
14 served the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MGM GRAND'S MOTION**
15 **FOR RECONSIDERATION ON MOTION FOR JUDGMENT ON THE PLEADINGS** on the
16 following parties by electronic transmission through the Wiznet system:

17 William R. Brenske, Esq.
18 Ryan D. Krametbauer, Esq.
19 BRENSKE & ANDREEVSKI
20 3800 Howard Hughes Parkway, Suite 500
21 Las Vegas, NV 89169
22 Tel.: (702) 385-3300
23 Fax: (702) 385-3823
24 wbrenske@hotmail.com
25 *Attorneys for Plaintiff*

26 Timothy F. Hunter, Esq.
27 RAY LEGO & ASSOCIATES
28 7450 Arroyo Crossing Pkwy., Suite 250
Las Vegas, NV 89113
Tel.: (702) 479-4350
Fax: (702) 270-4602
Direct: (702) 479-4371
tfhunter@travelers.com
Attorney for Defendant,
Ad Art, Inc.



An Employee of
HALL JAFFE & CLAYTON, LLP



CLERK OF THE COURT

1 OGM
2 RILEY A. CLAYTON
3 Nevada Bar No. 005260
4 rclayton@lawhjc.com

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7 LAS VEGAS, NEVADA 89128
8 (702) 316-4111
9 FAX (702)316-4114

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

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,
15 Plaintiff,

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

16 v.

17 MGM GRAND HOTEL, LLC, a Domestic
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23 INC., A Foreign Corporation a/k/a
24 ALUCOBOND TECHNOLOGIES
25 CORPORATION; DOES 1-25; ROE
26 CORPORATION 1-25; inclusive,

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

27 Defendants.

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29 Motion for Reconsideration on Motion for Judgment on the Pleadings. On June 3, 2016, Plaintiff filed
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33 the case authority cited therein and finding good cause, the Court issued a minute order on August 16,
34 2016 with its ruling on the pending motion for reconsideration, and now hereby submits its Findings of

35 Conclusions of Law, and Order.

RECEIVED BY
DEPT 17 ON
AUG 18 2016

1 **I. FINDINGS OF FACT**

2 1. This is a motion for reconsideration following a prior decision on a motion for judgment
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5 summarized as follows.

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7 Young Electric Sign Co. ("YESCO"). The MGM hired YESCO, a licensed contractor under NRS 624,
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11 4. Schueler alleges, generally, that the MGM was required, as a land owner, to maintain the
12 area of the marquee sign in a reasonably safe condition and to warn of potential hazards. According to
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15 5. The risk of falling from the sign is directly associated with working on the sign, and is
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18 1. Under EDCR 2.24, "a district court may reconsider a previously decided issue if
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22 Moreover, under NRCP 54(b), "the district court may at any time before the entry of a final judgment,
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24 2. The Nevada Supreme Court has provided guidance regarding whether a landowner
25 qualifies for immunity from suit under Nevada's workers compensation law when the landowner hires a
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27 *Inc.*, 122 Nev. 1213, 148 P. 684 (2006). In *Richards*, an injured employee, Richards, brought suit

1 against Republic for an injury Richards sustained when he fell from a ladder while descending from the
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7 *Id.* at 1215. The court went on to hold that Republic Silver State was a statutory employer of the injured
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10 *v. Rio Hotel & Casino, Inc.*, 117 Nev. 482, 25 P.3d 206 (2001).

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15 the replacement of the LED lights in the marquee sign. Schueler alleges that his injuries resulted from
16 his fall from the marquee sign, but this fall resulted from a risk directly associated with working on the
17 sign.

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

23 III. ORDER

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

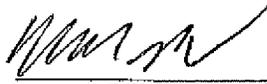
- 25 1. The MGM's Motion for Reconsideration on the Judgment on the Pleadings is
26 GRANTED;
- 27 2. The MGM is a "statutory employer" under Nevada's workers compensation law and is,
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therefore, immune from suit by Schueler.

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

Dated this 22 of Aug, 2016.

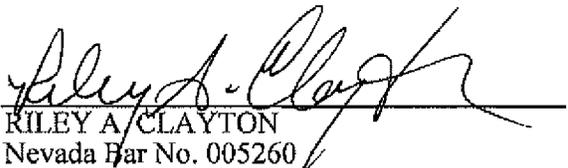


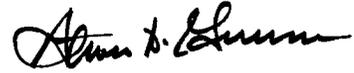
DISTRICT COURT JUDGE

2

Submitted by:

HALL JAFFE & CLAYTON, LLP

By 
RILEY A. CLAYTON
Nevada Bar No. 005260
7425 Peak Drive
Las Vegas, Nevada 89128
Attorneys for Defendant,
MGM Grand Hotel, LLC, d/b/a MGM Grand



CLERK OF THE COURT

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3 RYAN M. VENCI
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4 rvenci@lawhjc.com

5 **HALL JAFFE & CLAYTON, LLP**
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(702) 316-4111
7 FAX (702)316-4114

8 Attorney for Defendant,
MGM Grand Hotel, LLC, d/b/a MGM Grand
9

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

12 CHARLES SCHUELER,
13 Plaintiff,

14 v.

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

21 Defendants.
22

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

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

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

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

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

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

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

5
6 

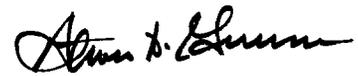
7
8 DISTRICT COURT JUDGE JB
MICHAEL P. VILLANI

9
10 *Prepared and Submitted by:*

11 HALL JAFFE & CLAYTON, LLP

12
13 By:


14 RILEY A. CLAYTON, ESQ.
Nevada Bar No. 005260
15 RYAN M. VENCI, ESQ.
Nevada Bar No. 007547
16 7425 Peak Drive
Las Vegas, Nevada 89128
17 *Attorneys for Defendant MGM Grand, LLC*
d/b/a MGM Grand



CLERK OF THE COURT

1 **NEOJ**
RILEY A. CLAYTON
2 Nevada Bar No. 005260
rclayton@lawhjc.com
3 RYAN M. VENCI
Nevada Bar No. 007547
4 rvenci@lawhjc.com

5 **HALL JAFFE & CLAYTON, LLP**
7425 PEAK DRIVE
6 LAS VEGAS, NEVADA 89128
(702) 316-4111
7 FAX (702)316-4114

8 Attorney for Defendant,
MGM Grand Hotel, LLC, d/b/a MGM Grand
9

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

12 CHARLES SCHUELER,
13 Plaintiff,

14 v.

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

21 Defendants.
22

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

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

23 TO: ALL PARTIES ABOVE-NAMED; and

24 TO: THEIR RESPECTIVE ATTORNEYS OF RECORD.

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

26 ///

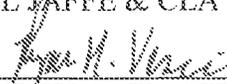
27 ///

28 ///

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

3 DATED this 7th day of November, 2016.

4 HALL JAFFE & CLAYTON, LLP

5 By 

RILEY A. CLAYTON

Nevada Bar No. 005260

RYAN M. VENCI

Nevada Bar No. 007547

7425 Peak Drive

Las Vegas, Nevada 89128

Attorneys for Defendant,

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

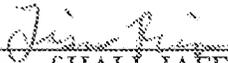
10 **CERTIFICATE OF SERVICE**

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

15 William R. Brenske, Esq.
16 Ryan D. Krametbauer, Esq.
17 BRENSKE & ANDREEVSKI
3800 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
18 *Attorneys for Plaintiff*

19 Timothy F. Hunter, Esq.
20 RAY LEGO & ASSOCIATES
7450 Arroyo Crossing Pkwy., Suite 250
Las Vegas, NV 89113
21 *Attorney for Defendant,*
Ad Art, Inc.

22 Leann Sanders, Esq.
23 Edward Silverman, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 W. Charleston Boulevard
Las Vegas, NV 89117
24 *Attorneys for Defendant,*
3A Composites USA Inc., f/k/a
Alucobond Technologies Corporation

25
26
27 
28 An Employee of HALL JAFFE & CLAYTON, LLP



CLERK OF THE COURT

1 **ORDG**
2 RILEY A. CLAYTON
3 Nevada Bar No. 005260
4 rclayton@lawhjc.com
5 RYAN M. VENCI
6 Nevada Bar No. 007547
7 rvenci@lawhjc.com

8 **HALL JAFFE & CLAYTON, LLP**
9 7425 PEAK DRIVE
10 LAS VEGAS, NEVADA 89128
11 (702) 316-4111
12 FAX (702)316-4114

13 Attorney for Defendant,
14 MGM Grand Hotel, LLC, d/b/a MGM Grand

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

17 CHARLES SCHUELER,
18 Plaintiff,

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

19 v.

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

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

Defendants.

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

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

34 **RECEIVED BY**
35 **DEPT 17 ON**
36 **NOV - 1 2016**

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

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

5
6 

7
8 DISTRICT COURT JUDGE **JB**
MICHAEL P. VILLANI

9 Prepared and Submitted by:

10 HALL JAFFE & CLAYTON, LLP

11
12
13 By:


14 RILEY A. CLAYTON, ESQ.
Nevada Bar No. 005260
15 RYAN M. VENCI, ESQ.
Nevada Bar No. 007547
16 7425 Peak Drive
Las Vegas, Nevada 89128
17 Attorneys for Defendant MGM Grand, LLC
d/b/a MGM Grand

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

February 10, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

**February 10, 2016 3:00 AM Motion for Judgment MGM Grand's
Motion for Judgment
on the Pleading**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant MGM Grand Hotel's Motion for Judgment on the Pleading came before this Court on the February 10, 2016, Chamber Calendar. MGM Grand Hotel's Motion for Judgment on the Pleadings is essentially a motion to dismiss, and it is this Court's policy to place dispositive motions on the oral calendar for argument. Therefore COURT ORDERED, the Defendant MGM Grand Hotel's Motion for Judgment on the Pleading is CONTINUED. Counsel for MGM Grand Hotel is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21.

CONTINUED TO: 03/09/16 8:30 AM

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Riley A. Clayton, Esq.

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

March 09, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

March 09, 2016 8:30 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT: Brenske, William R. Attorney
Clayton, Riley A Attorney
Silverman, Edward Attorney

JOURNAL ENTRIES

- DEFENDANT 3A COMPOSITES USA INC.'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION . . . MGM GRAND'S MOTION FOR JUDGMENT ON THE PLEADING

This is the time set for hearing on the above-named Motions.

Motion to Dismiss for Lack of Personal Jurisdiction: the Court has reviewed the Defendant's Motion to Dismiss for Lack of Personal Jurisdiction, the Plaintiff Charles Schueler's Opposition and Alternative Request to Conduct Additional Jurisdictional Discovery Pursuant to NRCP 56(f) and the Defendant's Reply in Support of Motion to Dismiss for Lack of Personal Jurisdiction. After hearing arguments of counsel COURT ORDERED, decision DEFERRED a written decision will be prepared.

Motion for Judgment on the Pleading: the Court has reviewed the Motion for Judgment on the Pleadings, the Plaintiff Charles Schueler's Opposition and Alternative Motion for Additional Discovery Pursuant to NRCP 56(f), and the Defendant's Reply in support of Motion for Judgment on the Pleading. After hearing arguments of counsel COURT ORDERED, decision DEFERRED a written

decision will be prepared.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

March 23, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

March 23, 2016 2:00 PM Decision

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction and MGM Grand's Motion for Judgment on the Pleading came before the Court on the March 9, 2016, Oral Calendar. The Court DEFERRED its decision and both Motions and now rules as follows on the Motion to Dismiss for Lack of Personal Jurisdiction:

Defendant 3A Composite USA Inc. ("3A") seeks to dismiss Plaintiff's Complaint for lack of both general jurisdiction and specific jurisdiction. At the outset, the Court recognizes that 3A is a Missouri Corporation with its principle place of business in North Carolina. On or around April 6, 1998, 3A sold the product at issue in this case ("Alucobond") to a California company named Interstate Electric Co. ("Interstate"). Interstate obtained the Alucobond in Kentucky, and part of Interstate's order was first shipped to Montana before ultimately arriving in Nevada.

First, a district court has general jurisdiction over a non-resident defendant when the defendant's affiliations with the forum state are so constant and pervasive "as to render [it] essentially at home in the forum state." Daimler AG v. Bauman, 134 S.Ct. 746 (2014) (quoting Goodyear Dunlop Tires Ops., S.A. v. Brown, 131 S.Ct. 2846 (2011)). Goodyear made clear that a limited set of affiliations within a forum state would render a defendant amenable to general jurisdiction. Id. For a corporation, the state of incorporation and principal place of business are the primary considerations for general

jurisdiction. Id. "Mere business transactions, even if occurring at regular intervals" are not enough to warrant a court's assertion of general jurisdiction over a non-resident corporation in a cause of action unrelated to those transactions. Id. The placement of a product into the stream of commerce may bolster a claim for specific jurisdiction, but these contacts do not warrant a finding of general jurisdiction. Id.

Additionally, a district court has general jurisdiction over a non-resident defendant when the defendant's activities in the forum state are "substantial" or "continuous and systematic" such that the assertion of personal jurisdiction over the non-resident defendant is constitutionally fair even where the claims are unrelated to those contacts. *Trump v. Eighth Judicial Dist. Ct.*, 109 Nev. 687 (1993). The United States Supreme Court recently held in *Daimler AG v. Bauman*, that when a foreign corporation has its principal place of business in another state, even proof of a "substantial, continuous, and systematic course of business" in the forum is not enough to assert general jurisdiction over it, but its affiliations with the state must be "so continuous and systematic" as to render it essentially at home in the forum state.

Lastly, a district court has specific jurisdiction over a non-resident defendant when the defendant purposefully enters the forum state's market or establishes contacts in the forum state, affirmatively directs conduct there, and the claims must also arise from that purposeful conduct. *Viega v. Eighth Judicial Dist. Ct.*, 130 Nev. Adv. Op. 40 (2014). The claims must have a "specific and direct relationship or be intimately related to the forum contacts." *Munley v. Second Dist. Ct.*, 104 Nev. 492 (1988). To exercise specific personal jurisdiction over a non-resident defendant, the plaintiff must demonstrate that (1) the defendant purposefully avails himself of the privilege of serving the forum state or enjoys the protection of the laws of the forum state, or that the defendant purposefully established contacts with and affirmatively directed conduct towards the forum state; and (2) the cause of action arises from that purposeful contact with the forum state. *Trump v. Eighth Judicial District Ct.*, 109 Nev. 687 (1993). The court must also consider whether it is reasonable for the defendant to defend the suit there. *Baker v. Eighth Judicial Dist. Ct.*, 116 Nev. 527 (2000).

The COURT FINDS that 3A's affiliations with Nevada are not so continuous and systematic as to render 3A essentially at home in Nevada. 3A is a Missouri Corporation with its principal place of business in North Carolina. The COURT FURTHER FINDS that 3A's contacts with Nevada do not rise to the level of purposeful contact or that 3A was affirmatively directing commerce to Nevada. The sale's invoice for the transaction consummated in 1998 was part of a larger transaction whose final destination could be changed at the whim of Interstate. 3A had no knowledge that its Alucobond would purposefully end up in Nevada. 3A's other contacts also do not rise to the level of purposeful contact or that 3A was affirmatively directing commerce to Nevada.

Therefore, COURT ORDERED Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction is GRANTED. Counsel for Defendant 3A Composite USA Inc. is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Edward Silverman, Esq., (Alverson, Taylor, Mortensen & Sanders).

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

April 08, 2016

A-15-722391-C

Charles Schueler, Plaintiff(s)

vs.

MGM Grand Hotel, LLC, Defendant(s)

April 08, 2016

9:30 AM

Decision

**Defendant MGM
Grand's Motion for
Judgment on the
Pleading**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant MGM Grand's Motion for Judgment on the Pleading and Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction came before this Court on the March 9, 2016, Oral Calendar. This COURT DEFERRED its decision on Defendant MGM Grand's Motion for Judgment on the Pleading and Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction. The Court ruled on Defendant 3A Composite USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction on March 23, 2016, and now rules on Defendant MGM Grand's Motion for Judgment on the Pleading as follows:

MGM Grand brings the present motion under NRCP 12(c). As such, a motion for judgment on the pleading is to be determined similarly to a motion to dismiss for failure to state a claim pursuant to NRCP 12(b)(5). See *Guise v. GWM Mortgage, LLC*, 377 F.3d 795 (7th Cir. 2004). In ruling upon a motion to dismiss, the court recognizes all factual allegations in the complaint as true and draws all inferences in its favor. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224 (2008). The complaint should be dismissed under NRCP 12(b)(5) only if it appears beyond a doubt that a party could prove no set of facts, which, if true, would entitle the party to relief. *Id.* Allegations within the complaint

must be taken at face value and construed favorably in the nonmoving party's behalf. *Edgar v. Wagner*, 101 Nev. 226 (1985).

Plaintiff alleges that MGM owned, operated, maintained, controlled, implemented and/or designed a sign. Plaintiff further alleges that MGM had a duty to provide a safe and defect free environment with the sign and reasonably and adequately repair or warn of dangerous conditions with the sign. MGM argues that Schueler's fall from the sign was an open and obvious danger and MGM had no duty to warn Schueler of the danger. In *Sierra Pacific Power Co. v. Rinehard*, 99 Nev. 557 (1983), the Nevada Supreme Court found that the plaintiff's fall from a cooling tower was an open and obvious danger. In the present case, Schueler did not fall by merely working on the sign. Schueler fell when a walkway or platform collapsed under his weight within the sign. The COURT FINDS that falling from within the MGM sign from a collapsed walkway or platform is not an open and obvious danger.

In the alternative, MGM Grand argues that MGM is a statutory employer of Schueler and is immune from suit. See NRS 616.560; NRS 618.395. The Court must look at the type of work performed to determine whether or not MGM is a statutory employer of Schueler. The COURT FINDS that the work performed by Schueler was not the kind of work normally conducted by employees of MGM Grand. *Meers v. Haughton Elevator*, 101 Nev. 283 (1985). The specialized work performed by Schueler required skill and expertise that the employees of MGM do not possess. Accordingly, at this stage of the proceedings, the Court cannot state as a matter of law that MGM Grand is a statutory employer to warrant granting a motion for judgment on the pleading.

Therefore, COURT ORDERED Defendant MGM Grand's Motion for Judgment on the Pleading is DENIED. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of William R. Brenske, Esq., (Law Offices of William R. Brenske).

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

April 12, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

April 12, 2016 9:00 AM Discovery Conference

HEARD BY: Bulla, Bonnie COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Andreevski, Jennifer R., ESQ Attorney
 Clayton, Riley A Attorney
 Hunter, Timothy F. Attorney

JOURNAL ENTRIES

- COMMISSIONER RECOMMENDED, Ms. Andreevski to PAY \$50.00 contribution to Legal Aid Center of Southern Nevada (Clark County Pro Bono Project) for her firm's failing to provide a courtesy copy of the report to the Discovery Commissioner; payment DUE within 30 days; a proof of payment must be submitted to the Discovery Commissioner. FURTHER, opposing counsel admonished regarding following up on compliance and non-receipt of a timely scheduling order. Discovery Commissioner will prepare the recommendation. Counsel anticipate 10 - 12 days for trial re: Personal Injury - Fall. No settlement conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 02/02/17; adding parties, amended pleadings, and initial expert disclosures DUE 11/04/16; rebuttal expert disclosures DUE 12/02/16; dispositive motions TO BE FILED BY 03/03/17. Scheduling Order will issue.

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

May 25, 2016

A-15-722391-C

Charles Schueler, Plaintiff(s)

vs.

MGM Grand Hotel, LLC, Defendant(s)

May 25, 2016

3:00 AM

**Motion For
Reconsideration**

**Plaintiff Charles
Schueler's Motion for
Reconsideration on
Defendant 3A
Composites USA
Inc.'s Motion to
Dismiss for Lack of
Personal Jurisdiction**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Plaintiff's Motion for Reconsideration on Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction came before this Court on the May 25, 2016, Chamber Calendar.

During argument on Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction, Plaintiff's counsel stated, "We don t need 56(f) [relief]." When issuing its decision, the Court did not recall that in summation Plaintiff modified its position and stated "So there's plenty of . . . specific jurisdiction in this case, your honor. And if for any reason you don't believe that s correct, then we do discovery like they did in Trump and the other Nevada Supreme Court cases that allow you to do that." Defendant 3A Composites USA Inc. submitted matters outside of the pleadings to the Motion to Dismiss (i.e. an invoice), so the Motion to Dismiss must be treated as a Motion for Summary Judgment. Stevens v. McGimsey, 99 Nev. 840, 840, 673 P.2d 499, 500 (1983). As such,

Plaintiff's request for jurisdictional discovery and supporting affidavit were appropriate under NRCP 56(f).

Therefore, COURT ORDERED Motion for Reconsideration on Defendant 3A Composites USA Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction is GRANTED. Plaintiff's Countermotion to Conduct Additional Discovery is GRANTED. Plaintiff may conduct jurisdictional discovery to the extent set forth in Plaintiff's affidavit. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Riley A. Clayton, Esq., (Hall Jaffe & Clayton, LLP).

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

June 22, 2016

A-15-722391-C

Charles Schueler, Plaintiff(s)

vs.

MGM Grand Hotel, LLC, Defendant(s)

June 22, 2016

3:00 AM

**Motion For
Reconsideration**

**MGM Grand's
Motion for
Reconsideration on
Motion for Judgment
on the Pleadings**

HEARD BY: Vega, Valorie J.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- MGM Grand's Motion for Reconsideration of Motion for Judgment on the Pleadings came before this Court on the June 22, 2016, Chamber Calendar. COURT ORDERED Motion for Reconsideration of Motion for Judgment on the Pleadings CONTINUED for Judge Villani's consideration.

CONTINUED TO: 08/13/16 CHAMBER CALENDAR

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

June 22, 2016

A-15-722391-C

Charles Schueler, Plaintiff(s)

vs.

MGM Grand Hotel, LLC, Defendant(s)

June 22, 2016

8:30 AM

Motion for Summary
Judgment

Defendant Ad Art,
Inc.'s Motion for
Summary Judgment

HEARD BY: Vega, Valorie J.

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This is the time set for hearing on Defendant Ad Art, Inc.'s Motion for Summary Judgment.

Mr. Hunter advised that Ad Art, Inc. is a new corporation formed by the former officers and employees of Ad Art Electric Sign Corporation which was sold to become a division of La-Man, Inc. which later became Display Technologies, Inc. Later, NASCO Electric Sign Company purchased the naming rights to Ad Art. However, in March 2003 the new corporation Ad Art, Inc. was formed. Mr. Hunter's client only purchased the NAME Ad Art. Ad Art was liquidated and NASCO only purchased the ability to use the name Ad Art; the new corporation was formed in 2003. This is not a successor corporation; Ad Art Electric Sign Company or the Company that purchased them La-Man, Inc. or Display Technologies which is what La-Man changed their name to, those are the companies which were successor entities.

The MGM pylon sign that is outside the MGM Grand Hotel was built in either 1993 or 1994, which is ten (10) years before the formation of this corporation. Ad Art Electric Sign Corporation did not merge with Ad Art, Inc. The company that bought Ad Art, Inc. was dissolved in 2001 and then the new corporation was formed two (2) years later in 2003. Plaintiff has not provided any evidence that

Ad Art, Inc. was in existence back in 1993 when the sign was actually built.

Additionally, Mr. Hunter advised that the Plaintiff is requesting NRCP 56(f) relief; the relief is not relevant because they are looking for information on the predecessor entities and there were no predecessor entities to Ad Art, Inc. Therefore, there is no relevance to anything that the predecessor entity may have done involving the MGM pylon sign and/or who the employees of Ad Art Inc. or the corporate designees of Ad Art Electric Sign Corporation were, which is the old corporation.

Mr. Brenske advised that no discovery has been done in this case. The purpose of discovery is to determine whether or not the current Deft. is liable for the injuries to his client. If you have a successor corporation, they are liable for the debts of a prior corporation. The Plaintiff is required to provide certain issues of fact in order to keep Ad Art, Inc. in this case. That is why the Plaintiff filed the Rule 56(f) motion because discovery needs to be done to determine those things and that is why the Rule 56(f) motion is relevant. Mr. Brenske requested that this Court deny the Motion for Summary Judgment, without prejudice, but alternatively, grant the motion under Rule 56(f); he would like one hundred twenty (120) days to perform some written discovery and take some depositions.

The COURT FINDS, that this is a recently filed case with no discovery having been conducted to date and that there are genuine issues of material fact as to whether successor liability exists and whether or not Ad Art, Inc. is a continued entity of the same corporation. Discovery needs to be conducted to flush out the facts and for the facts to become known to counsel; at this juncture it is difficult to determine how much time would be needed to conduct that discovery. The Court would have been inclined to a continuance under Rule 56(f) but because no discovery has been done yet, it is difficult to ascertain how much time is going to be needed. Therefore, COURT ORDERED, Motion for Summary Judgment DENIED, without prejudice. However, the Court will allow the discovery to go forward and then once the facts are flushed out and there is actual evidence and/or testimony that can be presented to attach as exhibits to this motion it may be brought anew. The denial is pursuant to Wood v. Safeway.

Mr. Hunter advised that some discovery has been done; Plaintiff propounded some written discovery upon his client and it was responded to; therefore, Mr. Hunter requested that this Court impose a discovery deadline. Court noted that counsel has the EDCR's the NRCP s and the Discovery Commissioner at his assistance.

Mr. Brenske to prepare the Order approved as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 13, 2016

A-15-722391-C

Charles Schueler, Plaintiff(s)

vs.

MGM Grand Hotel, LLC, Defendant(s)

July 13, 2016

3:00 AM

**Motion For
Reconsideration**

**MGM Grand's
Motion for
Reconsideration on
Motion for Judgment
on the Pleadings**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings came before this Court on the July 13, 2016, Chamber Calendar.

On April 8, 2016, this Court issued a Minute Order denying Defendant's Motion for Judgment on the Pleadings. Defendant now requests this Court reconsider its previous ruling. Schueler was an employee of YESCO and injured when he fell from a platform on the premises of the MGM Grand while he replaced LED lights for a marquee sign. It is undisputed that YESCO is a licensed contractor. Schueler filed suit against MGM for premises liability.

In Richards v. Republic Silver State Disposal, Inc., 122 Nev. 1213, 148 P.3d 684 (2006), Richards brought suit against Republic for an injury Richards sustained when he fell from a ladder while descending from the rooftop of Republic. Richards was installing a swamp cooler, which Republic contracted Richard's employer to complete. The facts in Richards are strikingly similar to those in the present matter.

Here, MGM Grand contracted YESCO, a licensed contractor, to perform the replacement of the LED lights in the marquee sign. Schueler alleges that his injuries resulted from his fall from the marquee sign, but this fall resulted from a risk directly associated with working on the sign. Upon further review of these facts and applicable law regarding statutory immunity, the COURT FINDS that Schueler's claim is related to a risk arising out of his duties with YESCO and that YESCO was a licensed contractor hired by MGM. Therefore, MGM is a statutory employer immune from suit. *Id.*; see also *Harris v. Rio Hotel & Casino, Inc.*, 117 Nev. 482, 25 P.3d 206 (2001).

Therefore, COURT ORDERED MGM Grand's Motion for Reconsideration on Motion for Judgment on the Pleadings is GRANTED. Counsel for MGM Grand is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Riley Clayton, Esq., (Hall Jaffe & Clayton, LLP).

DISTRICT COURT
CLARK COUNTY, NEVADA

Negligence - Other Negligence

COURT MINUTES

September 21, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

September 21, 2016 3:00 AM Motion for Clarification

HEARD BY: Villani, Michael COURTROOM: Chambers

COURT CLERK: Keri Cromer

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- Defendant 3A Composites USA Inc. s Motion for Clarification came before this Court on the September 21, 2016, Chamber Calendar. Having considered the papers and pleadings on file herein for these Motions, the COURT FINDS as follows:

- (1) This Court s decision on Plaintiff s Motion for Reconsideration granted on 5/25/16 ordered Plaintiff to prepare a proposed order pursuant to EDCR 7.21. As of 9/20/16, no such order has been proposed. Plaintiff s counsel is once again directed to submit the proposed order. If said order is not submitted on or before 9/30/16 sanctions will be imposed.
- (2) The intent of the court s minute entry dated 5/25/16 was to allow Plaintiff the opportunity to conduct discovery on all aspects of jurisdiction, both general and specific.
- (3) Since Plaintiff has had since 5/25/16 to formulate a plan for jurisdictional discovery, the Court is limiting any further jurisdictional discovery to 90 days. Discovery on this jurisdictional issue will therefore close on 12/20/2016. All other discovery matters are stayed as it related to 3A Composites USA Inc.

Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court

in briefing.

CLERK'S NOTE: The above minute order has been distributed via facsimile to: William Brenske, Esq. (702-385-3823), Timothy Hunter, Esq. (702-270-4602), and Riley Clayton, Esq. (702-316-4114)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 24, 2016

A-15-722391-C Charles Schueler, Plaintiff(s)
vs.
MGM Grand Hotel, LLC, Defendant(s)

October 24, 2016 9:30 AM Minute Order

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Olivia Black

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant s Motion to Certify Judgment as Final Pursuant to NRCP 54(b) came before this Court on the October 19, 2016, Chamber Calendar. This Court, having reviewed the pleadings and papers on file herein and Plaintiff filing Notice of No Opposition, COURT ORDERED Motion to Certify Judgment as Final Pursuant to NRCP 54(b) GRANTED. Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this Minute Order has been placed in the attorney folder of William Brenske, Esq., Timothy Hunter, Esq., and Riley Clayton, Esq.//ob/10/24/16.0



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

WILLIAM R. BRENSKE, ESQ.
3800 HOWARD HUGHES PKWY, SUITE 500
LAS VEGAS, NV 89169

DATE: December 5, 2016
CASE: A-15-722391-C

RE CASE: CHARLES SCHUELER vs. MGM GRAND HOTEL, LLC dba MGM GRAND; AD ART, INC.

NOTICE OF APPEAL FILED: November 30, 2016

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 MGM GRAND'S MOTION FOR RECONSIDERATION ON MOTION FOR JUDGMENT ON THE PLEADINGS; NOTICE OF ENTRY OF ORDER GRANTING MGM GRAND'S MOTION FOR RECONSIDERATION ON MOTION FOR JUDGMENT ON THE PLEADINGS; ORDER ON DEFENDANT MGM GRAND HOTEL, LLC D/B/A MGM GRAND'S MOTION TO CERTIFY JUDGMENT AS FINAL PURSUANT TO NRCP 54(B); NOTICE OF ENTRY OF ORDER ON DEFENDANT MGM GRAND HOTEL, LLC D/B/A MGM GRAND'S MOTION TO CERTIFY JUDGMENT AS FINAL PURSUANT TO NRCP 54(B); DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

CHARLES SCHUELER,

Plaintiff(s),

vs.

MGM GRAND HOTEL, LLC dba MGM GRAND; AD ART, INC.,

Defendant(s),

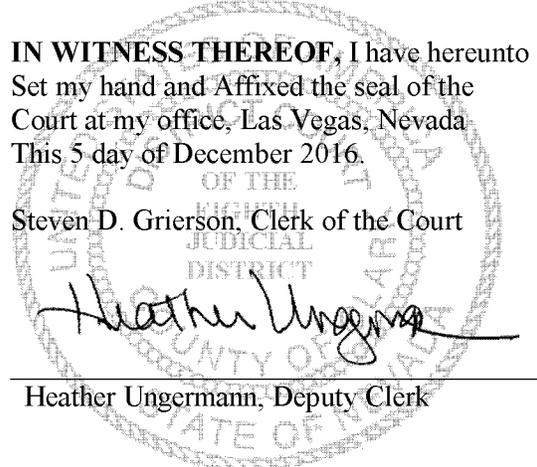
Case No: A-15-722391-C

Dept No: XVII

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 5 day of December 2016.

Steven D. Grierson, Clerk of the Court



Heather Ungermann

Heather Ungermann, Deputy Clerk