

1 Brown, Esq. and Justin A. Shiroff, Esq. of Ballard Spahr LLP appeared on behalf of  
2 Defendants. Having considered the Motion, Opposition, and Reply, as well as the  
3 arguments of counsel, the Court hereby finds and orders as follows:

4 FACTS & PROCEDURE

5 This case stems from an article published by the Associated Press and  
6 written by Regina Garcia Cano on February 27, 2018. The AP article was based on  
7 the police report entered on February 7, 2018, by two (2) individuals alleging prior  
8 conduct that occurred in the 1970's by Plaintiff, Steve Wynn. A copy of the article  
9 was attached as Exhibit # 3 to the Complaint. Plaintiff filed a Complaint against AP,  
10 Regina Cano and Halina Kuta alleging various causes of action including,  
11 Defamation by all parties. The Article outlines the allegations made to the police by  
12 the two complainants, including one made by Defendant Kuta against Plaintiff Wynn.

13 On July 5, 2018, Wynn and Defendants entered into a Stipulation and Order  
14 Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 (the  
15 "Stipulation"). The Stipulation included modifications both to this Court's scheduling  
16 for the hearing and to the Court's consideration of the grounds argued by  
17 Defendants in their Motion.

18 The Stipulation was entered between the parties prior to the Hearing  
19 specifically setting forth that Defendants argued in their Motion "that N.R.S. §41.660  
20 [the 'Nevada Anti-SLAPP Statute'] applies and that Wynn cannot demonstrate a  
21 likelihood of success, as required under the statute, for two separate reasons: first,  
22 that the reporting by the Defendants is privileged; and second, that Wynn cannot  
23 demonstrate fault." Stipulation at 2 (citations omitted). Wynn and the Defendants  
24 stipulated "that discovery is not necessary to resolve the first basis for the motion,  
25 i.e., whether the challenged news report is subject to the fair reporting privilege as a  
26 matter of law." Id. Wynn and the Defendants further stipulated and the Court  
27 ordered that, at the hearing on the Motion (then set for July 31, 2018, but later  
28 moved to August 14, 2018), "the Court shall consider the fair reporting privilege

1 under the Nevada Anti-SLAPP Statute, a question of law." *Id.* at 3. Wynn and the  
2 Defendants further stipulated and the Court ordered that, "[i]f the Court finds the  
3 reporting in this case not to be covered by the fair reporting privilege, the Court shall  
4 continue to a second hearing to consider the issue of fault[.]" *Id.* (emphasis added).

5 FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER

6 "Under Nevada's anti-SLAPP statutes, a defendant may file a special motion  
7 to dismiss if the defendant can show 'by a preponderance of the evidence, that the  
8 claim is based upon a good faith communication in furtherance of the right to petition  
9 or the right to free speech in direct connection with an issue of public concern.'" NRS  
10 § 41.660(3)(a); *Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d 262, 267 (2017).

11 NRS 41.637(4) defines a "[g]ood faith communication in furtherance of the  
12 right to petition or the right to free speech in direct connection with an issue of public  
13 concern" as any "[c]ommunication made in direct connection with an issue of public  
14 interest in a place open to the public or in a public forum, which is *truthful or is made*  
15 *without knowledge of its falsehood.*" *Id.* (Emphasis added).

16 The Court finds the News article fairly reported information that was the  
17 subject of the News article, i.e., the police reports filed by the two (2) complainants.  
18 Additionally, the News article clearly states that the information was obtained from  
19 copies of police reports that were recently filed. Plaintiff argued that additional  
20 information should have been included in the News article, which in turn, would have  
21 led readers of the article to reach their own conclusion as to the truth of the  
22 allegations made to the police. However, Plaintiff's argument is misplaced because  
23 the police report did not provide the names of the complainants.

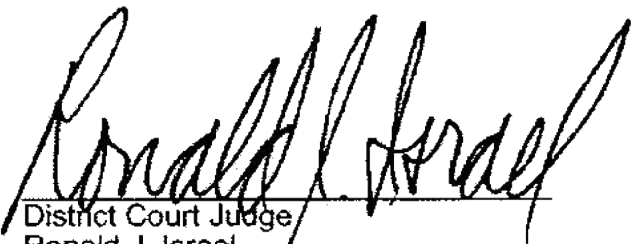
24 The Court finds that the reporter accurately described the Police reports, and  
25 therefore, the privilege is absolute. The Court further finds that the Nevada fair  
26 reporting privilege applies to the news report at issue and, therefore, pursuant to the  
27 parties' stipulation, no hearing on the issue of fault is required. The Nevada Anti-  
28 SLAPP statute applies in this case; therefore,

**ORDER**

IT IS ORDERED that the Motion is **GRANTED** and the Complaint shall be **DISMISSED WITH PREJUDICE** as against the Associated Press and Garcia Cano pursuant to Nev. Rev. Stat. § 41.660.


IT IS SO ORDERED.

DATED: August 23, 2018

  
District Court Judge  
Ronald J. Israel


Case No. A-18-772715-C

Order Granting Defendant's The Associated Press  
And Regina Garcia Cano's Special Motion To  
Dismiss



CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of August, 2018, a copy of this **ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:

  
JUDICIAL EXECUTIVE ASSISTANT  
SANDRA JETER  
A-18-772715-C



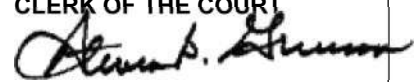
## File Into Existing Case

Service Contacts: A-18-772715-C

Case Number	Name	Location	Description	Email	Case Type
A-18-772715-C	Department 20	Steve Wynn, Plaintiff	Order For		
1	▼ Party: Steve Wynn - Plaintiff				1 - 1 of 1 items
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	► Party: Halina Kuta - Defendant				
	► Other Service Contacts				
1	10 items per page				1 - 5 of 5 items

# EXHIBIT 2

# EXHIBIT 2



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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION FOR ENTRY OF  
FINAL JUDGMENT AND RULE 54(b)  
CERTIFICATION**

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PLEASE TAKE NOTICE that an Order Granting Motion for Entry of Final Judgment and Rule 54(b) Certification ("Order") was entered on November 27, 2018. A copy of said Order is attached hereto.

Respectfully submitted this 27<sup>th</sup> day of November, 2018.

PETERSON BAKER, PLLC

By: /s/ Tamara Beatty Peterson

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to NRCF 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27<sup>th</sup> day of November, 2018, to the following:

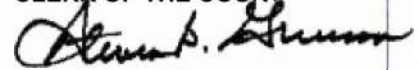
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Press and Regina Garcia Cano*

I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION** to be served via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27<sup>th</sup> day of November, 2018, to the following address:

Halina Kuta  
17 W. Pinehurst Drive  
Laguna Vista, TX 78578  
*In Proper Person*

/s/ Erin L. Parcels  
An employee of Peterson Baker, PLLC



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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**ORDER GRANTING MOTION FOR  
ENTRY OF FINAL JUDGMENT AND  
RULE 54(b) CERTIFICATION**

Date of Hearing: November 6, 2018

Time of Hearing: 9:00 a.m.

This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,



1 of Ballard Spahr LLP, appeared on behalf of Defendants The Associated Press and Regina Garcia  
2 Cano (the "AP Defendants"). Defendant Halina Kuta ("Ms. Kuta"), proceeding *pro se*, did not  
3 appear. The Court, having reviewed and considered the briefs filed by the parties and the papers  
4 on file herein, as well as the arguments made during the hearing, hereby finds as follows:

5 1. On August 23, 2018, the Court entered an "Order Granting Defendant's The  
6 Associated Press and Regina Garcia Cano's Special Motion to Dismiss" (the "anti-SLAPP Order").

7 2. In the anti-SLAPP Order, the Court dismissed with prejudice Mr. Wynn's Complaint  
8 as against the AP Defendants pursuant to NRS 41.660, resulting in the dismissal of the AP  
9 Defendants as parties to this action.

10 3. In their response to Mr. Wynn's Motion, the AP Defendants stated they "have no  
11 objection to the entry of a final judgment against Mr. Wynn on his defamation claim arising from  
12 that news report."

13 4. Ms. Kuta did not file any opposition to Mr. Wynn's Motion.

14 5. The AP Defendants and Defendant Kuta did not (i) dispute that Mr. Wynn will suffer  
15 prejudice if his appeal of the anti-SLAPP Order is delayed, (ii) claim that they will suffer any  
16 prejudice by the granting of Mr. Wynn's Motion, or (iii) refute that the prejudice to Mr. Wynn  
17 would be greater than the non-existent prejudice to Ms. Kuta and the AP Defendants. *See Mallin*  
18 *v. Farmers Ins. Exchange*, 106 Nev. 606, 611, 797 P.2d 978, 981-82 (1990) (setting forth three  
19 steps for determining whether "there is no just reason for delay," based on the elimination of a  
20 party).

21 6. Pursuant to NRCP 54(b) and the above findings, there is no just reason to delay  
22 certifying the finality of the anti-SLAPP Order and directing entry of a final judgment in favor of  
23 the AP Defendants.

24 7. The granting of Mr. Wynn's Motion has no impact on Mr. Wynn's claim against Ms.  
25 Kuta.

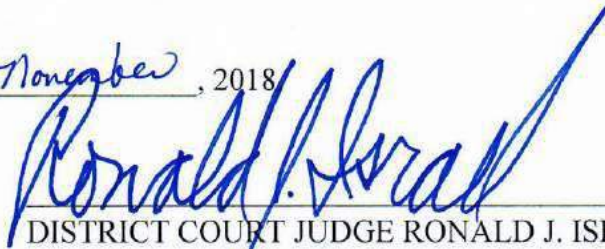
26 In light of the above findings and good cause appearing therefore, the Court orders as  
27 follows:  
28

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Mr. Wynn's Motion is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCF 54(b).

IT IS SO ORDERED.

DATED this 20 day of November, 2018

  
DISTRICT COURT JUDGE RONALD J. ISRAEL <sup>4F</sup>

Case No. A-18-772715-C

Order Granting Motion for Entry of Final Judgment and  
Rule 54(b) Certification

Respectfully submitted by:



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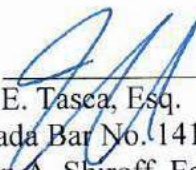
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1 Nev. R. Civ. P. 54(b) (emphasis in original). The court need not make findings of fact regarding  
2 specific factors in order to grant certification. *See Mallin v. Farmers Ins. Exchange*, 106 Nev. 606,  
3 609-10, 797 P.2d 978, 980-81 (1990) (upholding determination of finality). "[A] certification of  
4 finality pursuant to NRCP 54(b) based on the elimination of a party will be presumed valid and will  
5 be upheld by [the Nevada Supreme Court] absent a gross abuse of discretion." *Mallin*, 106 Nev. at  
6 611, 797 P.2d at 981-82.

7 As set forth above, the anti-SLAPP Order dismissed with prejudice the Complaint against  
8 the AP Defendants, resulting in the dismissal of the AP Defendants from this action.<sup>1</sup> In *Mallin*,  
9 the Nevada Supreme Court set forth three steps for determining whether "there is no just reason for  
10 delay," based on the elimination of a party.<sup>2</sup> A trial court "should first consider the prejudice to  
11 that party in being forced to wait to bring its appeal"; in this case, Mr. Wynn. *Mallin*, 106 Nev. at  
12 611, 797 P.2d at 981. The trial court should then "consider the prejudice to the parties remaining  
13 below if the judgment is certified as final"; in this case, Defendant Kuta. *Id.* Third, the trial court  
14 should weigh the respective prejudices and certify the judgment as final "if the prejudice to the . . .  
15 party [seeking appeal] would be greater than the prejudice to the parties remaining below." *Id.* In  
16 *Jacobs v. Adelson*, a district court certified an order as final when it dismissed one defendant in a  
17 defamation action based on an absolute privilege, "because the dismissal resolved all claims  
18 against" that defendant. *Jacobs v. Adelson*, 130 Nev. 408, 412, 325 P.3d 1282, 1284-85 (2014).

19 Here, there is no just reason for delay, and the Court should enter final judgment. Applying  
20 the first step from *Mallin*, the prejudice to Mr. Wynn would be great if final judgment were not  
21 entered. The lawsuit as to the AP Defendants has effectively been terminated. Nevertheless, Mr.  
22 Wynn would be forced to file his appeal after he resolved his case against Defendant Kuta, which  
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24 <sup>1</sup> The fact the AP Defendants have a pending motion for attorneys' fees does not weigh upon  
25 the Rule 54(b) analysis regarding whether the lawsuit has been terminated as to the AP Defendants.  
26 *See Lee v. GNLV Corp.*, 116 Nev. 424, 427, 996 P.2d 416, 417 (2000) (finding that a summary  
27 judgment order in favor of defendant was a final judgment that could be appealed, notwithstanding  
28 the court entering a subsequent judgment upon the defendants' motion for attorneys' fees and costs).

<sup>2</sup> The *Mallin* Court's three-step process applies when fewer than all parties have been  
dismissed. *Mallin*, 106 Nev. at 611-12, 797 P.2d at 981. A different standard applies when a party  
is seeking certification of an order that merely dismisses one or more claims against a party who  
otherwise remains an active litigant in the trial court.

1 could take years, as the case is in its initial stages.<sup>3</sup> Such delay, by definition, is prejudicial to a  
2 plaintiff. Mr. Wynn may be forced to wait years to redress the AP Defendants' false accusations  
3 against his reputation.

4 Moreover, other members of the media may take their cue from the AP Defendants and  
5 publish more false and defamatory articles about Mr. Wynn, leaving out key exculpatory details  
6 about him. Indeed, as the AP Defendants conceded, the main issue to be appealed is a matter of  
7 first impression as "*the Nevada Supreme Court has not yet specifically considered the application*  
8 *of the fair report privilege to an official police 'case report' document.*" (emphasis added).<sup>4</sup> Mr.  
9 Wynn has a strong interest in having the Nevada Supreme Court hear his appeal and settle this point  
10 of law now.

11 Turning to *Mallin's* second step, there is no risk of prejudice to Defendant Kuta because Mr.  
12 Wynn's defamation claim against her is sufficiently separate and distinct from his defamation claim  
13 against the AP Defendants. The AP Defendants' anti-SLAPP Motion turns on the anti-SLAPP  
14 standard, the absolute fair report privilege, and the AP Defendants' state of mind—none of which  
15 bear on the case against Defendant Kuta. Thus, the holding on appeal cannot prejudice Defendant  
16 Kuta's defense in this case.

17 As the Court is aware, an action for defamation requires the plaintiff to prove four elements:  
18 "(1) a false and defamatory statement ...; (2) an unprivileged publication to a third person; (3) fault,  
19 amounting to at least negligence; and (4) actual or presumed damages." *Clark Cty. Sch. Dist. v.*  
20 *Virtual Educ. Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 503 (2009). Here, it cannot be  
21 seriously contested that the statements made by Defendant Kuta and republished by the AP  
22 Defendants were false and defamatory. Indeed, the AP Defendants' anti-SLAPP Motion did not  
23 challenge the elements of falsity or defamatory meaning.

24 The privilege and fault elements of Mr. Wynn's defamation claim differ between Defendant  
25 Kuta—as the original source of the defamatory statements—and the AP Defendants, as the re-

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26 <sup>3</sup> Mr. Wynn and Defendant Kuta will soon be having their Early Case Conference. After  
27 the joint case conference report is submitted and approved by the Court, the parties will begin  
discovery.

28 <sup>4</sup> See AP Defendants' "Reply in Support of Special Motion to Dismiss Pursuant to NRS §  
41.660 (anti-SLAPP Statute)" filed on August 7, 2018, at 4:14-16.

1 publisher of a portion of the defamatory statements. Specifically, as an original source, Defendant  
2 Kuta cannot assert the absolute fair report privilege that the AP Defendants asserted (which the  
3 Court applied in granting their anti-SLAPP Motion). Moreover, the question of fault—which in  
4 this case turns on each defendant's state of mind—is necessarily different for Defendant Kuta and  
5 the AP Defendants.

6 Appellate review of the AP Defendants' anti-SLAPP Motion would address the anti-SLAPP  
7 statutes, which have no bearing on Defendant Kuta's defense. Defendant Kuta did not file an anti-  
8 SLAPP motion, nor can she as the deadline has expired. And, any determination the Nevada  
9 Supreme Court makes when reviewing the anti-SLAPP Motion and whether Mr. Wynn "has  
10 established a probability of prevailing on the claim . . . will not: (1) [b]e admitted into evidence at  
11 any later stage of the underlying action or subsequent proceeding; or (2) [a]ffect the burden of proof  
12 that is applied in the underlying action or subsequent proceeding." NRS 41.637(3)(c).

13 Thus, under *Mallin's* second step, Defendant Kuta will not suffer prejudice because a  
14 decision by the Nevada Supreme Court either affirming or reversing the Court's anti-SLAPP Order  
15 will not decide the law of the case on the defamation claim still pending against Defendant Kuta.  
16 *See Bernard v. Rockhill Dev. Co.*, 103 Nev. 132, 135, 734 P.2d 1238, 1241 (1987) (holding that  
17 although dismissed tort claim "arose out of the same transaction or series of transactions as the  
18 remaining unresolved breach of contract claim," the tort claim "was sufficiently separate and  
19 distinct as to warrant a Rule 54(b) certification").

20 Third, under *Mallin's* final step, this Court should certify the judgment as final because the  
21 above-described prejudice to Mr. Wynn would be greater than the non-existent prejudice to  
22 Defendant Kuta.<sup>5</sup>

23 //

24 //

25 //

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26  
27 <sup>5</sup> In fact, the AP Defendants may also suffer prejudice if the appeal is not allowed at this  
28 time, as they, among other things, will not be allowed to engage in discovery relative to Mr. Wynn's  
claim against Kuta, which may relate to or affect the case against the AP Defendants in the event  
of an appellate reversal of the anti-SLAPP Order.

1 **IV. CONCLUSION**

2 For the reasons set forth above, the Court should expressly determine that under Nev. R.  
3 Civ. P. 54(b) that there is no just reason for delay and direct the entry of final judgment in favor of  
4 the AP Defendants. The Court should grant this Motion.

5 Respectfully submitted this 25<sup>th</sup> day of September, 2018.

6 PETERSON BAKER, PLLC

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8 By: /s/ Nikki L. Baker

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19 *Attorneys for Plaintiff Steve Wynn*

1 **CERTIFICATE OF SERVICE**

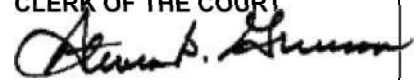
2 I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to  
3 NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct  
4 copy of the foregoing MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b)  
5 CERTIFICATION to be submitted electronically for filing and service with the Eighth Judicial  
6 District Court via the Court's Electronic Filing System on the 25<sup>th</sup> day of September, 2018, to the  
7 following:

8 JOEL E. TASCA, ESQ.  
9 tasca@ballardspahr.com  
10 JUSTIN A. SHIROFF, ESQ.  
11 shiroffj@ballardspahr.com  
12 BALLARD SPAHR LLP  
13 1980 Festival Plaza Drive, Suite 900  
14 Las Vegas, Nevada 89135  
15 *Attorneys for Defendants The Associated*  
16 *Press and Regina Garcia Cano*

17 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing to be served  
18 via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court  
19 via the Court's Electronic Filing System on the MOTION FOR ENTRY OF FINAL JUDGMENT  
20 AND RULE 54(b) CERTIFICATION on the day 25<sup>th</sup> of September, 2018, to the following address:

21 Halina Kuta  
22 17 W. Pinehurst Drive  
23 Laguna Vista, TX 78578  
24 *In Proper Person*

25 /s/ Erin L. Parcels  
26 \_\_\_\_\_  
27 An employee of Peterson Baker, PLLC  
28



Joel E. Tasca  
Nevada Bar No. 14124  
Justin A. Shiroff  
Nevada Bar No. 12869  
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1980 Festival Plaza Drive, Suite 900  
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Email: [shiroffj@ballardspahr.com](mailto:shiroffj@ballardspahr.com)

*Attorneys for Defendants  
The Associated Press and Regina Garcia Cano*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STEVE WYNN, an individual	)	Case No. A-18-772715-C
Plaintiff,	)	
v.	)	Dept. No. XXVIII
THE ASSOCIATED PRESS, a foreign	)	
corporation; REGINA GARCIA CANO, an	)	
individual; and HALINA KUTA, an	)	
individual; DOES I-X,	)	
Defendants.	)	

**THE ASSOCIATED PRESS DEFENDANTS'  
RESPONSE TO PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENT  
AND RULE 54(b) CERTIFICATION**

Defendants The Associated Press and Regina Garcia Cano (together, "AP" or the "AP Defendants"), by and through undersigned counsel, submit this Response to Plaintiff's Motion for Entry of Final Judgment and Rule 54(b) Certification (the "Motion").

//

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**MEMORANDUM OF POINTS AND AUTHORITIES**

The AP Defendants published an accurate, and therefore privileged, news report about a police complaint regarding Plaintiff Steve Wynn, and have no objection to the entry of a final judgment against Mr. Wynn on his defamation claim arising from that news report. However, AP suggests there is a simpler—and more proper—way for him to obtain an immediately appealable final judgment. Plaintiff should voluntarily dismiss his remaining claim against the 71-year-old *pro se* defendant, Halina Kuta, in light of his own judicial submissions demonstrating that the claim against her is fatally infirm as a matter of law.

According to a sworn statement from Ms. Kuta tendered by Mr. Wynn, she filed the sexual assault complaint with the Las Vegas Metropolitan Police Department that police officials forwarded to AP with the alleged victim’s name redacted. It is Ms. Kuta’s reporting of those allegations to police that forms the basis of Mr. Wynn’s defamation claim against Ms. Kuta. *See* Aff. of Halina Kuta (“Kuta Aff.”) at ¶ 22, attached as Ex. 3 to Pl.’s Opp. to the AP Defs.’ Special Mtn. to Dismiss on Issue of Fair Report Privilege (“Pl. Opp.”). Notably, counsel for Mr. Wynn both drafted the affidavit for Ms. Kuta’s signature and submitted it to the Court. In the sworn statement, Ms. Kuta affirms that she believed (and believes) in the accuracy of everything contained in the police report. *Id.* ¶¶ 22-24. In filings with this Court, counsel for Mr. Wynn adopted that assertion as true: “Since the filing of this action, it has become clear that Defendant Kuta may suffer from delusions about people in the news, including Mr. Wynn and Michael Jackson.” Pl. Opp. at 5. Indeed, Mr. Wynn has repeatedly characterized Ms. Kuta as “delusional,” apparently because she believes her allegations about Mr. Wynn, and other unusual claims about her personal history. *See generally id.*

Under Nevada Supreme Court authority, those who submit police complaints are entitled a privilege against defamation liability unless they *knowingly* make false statements. *See Pope v. Motel 6*, 121 Nev. 307, 315-17 (2005) (“Having concluded



1 that the qualified privilege applies in this instance, we examine whether [the  
2 plaintiff] produced any evidence that [the defendant's] statements to the police were  
3 made with actual malice.”); *see also id.* (“Actual malice is a stringent standard that is  
4 proven by demonstrating that ‘a statement is published with knowledge that it was  
5 false or with reckless disregard for its veracity.’” (citation omitted)). Mr. Wynn now  
6 claims to pursue a defamation claim against Ms. Kuta because her allegations to  
7 police were made “falsely, maliciously, and otherwise ... in bad faith,” Motion at 5  
8 (citing Complaint). The undisputed evidence, which Mr. Wynn himself put before the  
9 Court, is entirely to the contrary; whether objectively true or not, the evidence shows  
10 that Ms. Kuta believed her allegations. Kuta Aff. ¶¶ 22-24; *see generally* Pl. Opp. at  
11 5-8. As such, Mr. Wynn has no viable defamation claim against Ms. Kuta as a  
12 matter of law. *Pope*, 121 Nev. at 317.

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1 The AP Defendants respectfully submit that a Rule 54(b) order is unwarranted  
2 where there is an obvious alternative for Mr. Wynn—dismissing his remaining claim  
3 against Ms. Kuta, which his own submissions clearly establish cannot succeed as a  
4 matter of law.

5  
6 DATED this 10th of October, 2018.

7  
8 BALLARD SPAHR LLP

9 By: /s/ Justin A. Shiroff  
10 Joel E. Tasca  
11 Nevada Bar No. 14124  
12 Justin A. Shiroff  
13 Nevada Bar No. 12869  
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15 Las Vegas, Nevada 89135

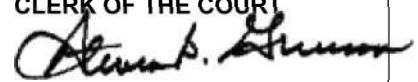
16 Jay Ward Brown (Pro hac vice)  
17 Chad R. Bowman (Pro hac vice)  
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20 Telephone: (202) 661-2200  
21 brownjay@ballardspahr.com  
22 bowmanchad@ballardspahr.com

23 *Attorneys for Defendants*  
24 *The Associated Press and*  
25 *Regina Garcia Cano*  
26  
27  
28

I HEREBY CERTIFY that on the 10th day of October, 2018, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing ASSOCIATED PRESS DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION was filed and served on the following parties via the Court's electronic service system:

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Nicole J. Wade, Esq.  
G. Taylor Wilson, Esq.  
L. LIN WOOD, P.C.  
1180 West Peachtree Street, Suite 2400  
Atlanta, GA 30309

/s/ Sarah H. Walton  
An Employee of Ballard Spahr LLP



**RIS**

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Facsimile: 404.506.9111

*Attorneys for Plaintiff Steve Wynn*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**PLAINTIFF STEVE WYNN'S REPLY IN  
SUPPORT OF MOTION FOR ENTRY OF  
FINAL JUDGMENT AND RULE 54(b)  
CERTIFICATION**

**Date of Hearing: November 6, 2018**

**Time of Hearing: 9:00 a.m.**

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. DISCUSSION**

To rule on Mr. Wynn's<sup>1</sup> pending Motion, the Court need only read the AP Defendants' first sentence of their Opposition, wherein the AP Defendants confirm they "**have no objection to the entry of a final judgment against Mr. Wynn on his defamation claim arising from that news report.**" (*See* Opp. at 2:2-5.) (emphasis added). Likewise, Defendant Kuta has not opposed Mr. Wynn's Motion. The absence of any opposition from Defendant Kuta should "be construed as an admission that the motion ... is meritorious and a consent to granting the same."<sup>2</sup> The Court can, and should, grant Mr. Wynn's unopposed Motion.

After expressly acknowledging they have no legitimate basis to oppose Mr. Wynn's Motion, the AP Defendants nevertheless engage in a peculiar backseat driver maneuver. The AP Defendants spend the next forty lines of their Opposition offering "a simpler—and more proper—way" for Mr. Wynn "to obtain an immediately appealable final judgment." (*See* Opp. at 2:5-6.) Based on their evaluation of Mr. Wynn's arguments in his moving papers and of Defendant Kuta's Affidavit, the AP Defendants conclude that Mr. Wynn has "no viable defamation claim against Ms. Kuta as a matter of law" because of her state of mind. (*Id.* at 2-3.) The AP Defendants then tell the Court that "a Rule 54(b) order is unwarranted where there is an obvious alternative for Mr. Wynn—dismissing his remaining claim against Ms. Kuta, which by his own submissions clearly establish cannot succeed as a matter of law." (*Id.* at 4:1-4.) The AP Defendants are wrong.

Contrary to the AP Defendants' theory, Defendant Kuta's state of mind has not been indisputably established in this case. Defendant Kuta's state of mind has not been fully explored in discovery, and the trier of fact has yet to rule on her state of mind. What is known is that Defendant Kuta has repeatedly attacked Mr. Wynn: she filed a frivolous federal lawsuit against him; she filed a false police report about him; and, after a hearing in this lawsuit, she gave an interview to the AP

---

<sup>1</sup> Unless otherwise defined, capitalized terms in this Reply shall have the same definitions as described in Plaintiff Steve Wynn's "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018 (the "Motion").

<sup>2</sup> *See* EDCR 2.20(e) ("Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.").

1 making false accusations against him. Given Defendant Kuta's active efforts in promulgating false  
2 and defamatory accusations against Mr. Wynn, he is entitled to prevent her from inflicting  
3 additional harm and to a final resolution against her through this action. Under the AP Defendants'  
4 proposed alternative to Rule 54(b) certification, however, Mr. Wynn would be unjustly denied  
5 access to the Court to establish Defendant Kuta's state of mind and redress her past and on-going  
6 campaign of false accusations against him. Mr. Wynn should not be forced to dismiss his  
7 meritorious claim against Defendant Kuta in order to avoid prejudice and delay from a denial of  
8 his Motion.

9 Additionally, the AP Defendants' position is revealing, albeit misguided, given the stance  
10 they took in this action not so long ago. In their anti-SLAPP Motion, the AP Defendants stridently  
11 disavowed any moral or legal obligation to "make credibility determinations"—or use common  
12 sense for that matter—about the obviously delusional and fanciful statements in Defendant Kuta's  
13 false police report before publishing the same in the AP Article. (*See e.g.*, anti-SLAPP Motion at  
14 18:11-12.) The AP Defendants now lobby for a dismissal of the source for their defamatory AP  
15 Article by essentially claiming that Defendant Kuta is so obviously not in her right mind that her  
16 statements in the false police report could not have been made with actual malice.

17 Before the Court gives any credence to the AP Defendants' newfound ability and impulse  
18 to make credibility determinations, it should first ask the AP Defendants the following question:  
19 what strategic advantage do the AP Defendants hope to gain by advocating on behalf of Defendant  
20 Kuta a position that she has not even argued for?<sup>3</sup> Given her request for affirmative relief from the  
21 Court for DNA testing, Defendant Kuta may not want to be dismissed from this action. The Court  
22 should not allow the AP Defendants' self-interests to trump the interests of Mr. Wynn and  
23 Defendant Kuta.

24 Equally important, the AP Defendants' opinions on the viability of, and what should happen  
25 with, Mr. Wynn's claims against Defendant Kuta are wholly irrelevant to the Motion before the  
26

---

27 <sup>3</sup>If Mr. Wynn were to hazard a guess, the AP Defendants want the Court to pressure Mr.  
28 Wynn into dismissing his claims against Defendant Kuta because they are concerned about what  
Mr. Wynn may uncover during the discovery phase of this case while the appeal is pending.

1 Court. Mr. Wynn was unable to find any case law in Nevada—and the AP Defendants cite to  
2 none—that permits, much less requires, a court to evaluate whether alternatives, such as dismissing  
3 a remaining defendant, exist before granting a Rule 54(b) motion. Rather, the key factors  
4 counseling in favor of allowing an immediate appeal in this case are that the AP Defendants and  
5 Defendant Kuta (i) have not disputed that Mr. Wynn will suffer prejudice if his appeal of the anti-  
6 SLAPP Order is delayed, (ii) have not claimed that they will suffer any prejudice by the granting  
7 of Mr. Wynn's Motion, and (iii) have not contested that the prejudice to Mr. Wynn would be greater  
8 than the non-existent prejudice to Defendant Kuta and the AP Defendants. *See Mallin v. Farmers*  
9 *Ins. Exchange*, 106 Nev. 606, 611, 797 P.2d 978, 981-82 (1990) (setting forth three steps for  
10 determining whether "there is no just reason for delay," based on the elimination of a party). Simply  
11 put, any discussion about whether an alternative, such as dismissing Defendant Kuta, exists has no  
12 place in this debate.<sup>4</sup>

13 In sum, the conditions for the use of Rule 54(b) have been met. Mr. Wynn should be  
14 allowed to prosecute his claims against Defendant Kuta while simultaneously appealing to the  
15 Nevada Supreme Court the matter of first impression addressed in the anti-SLAPP Order. The  
16 Court should find that no just reason exists to delay Mr. Wynn's appeal of the anti-SLAPP Order  
17 and grant the unopposed Motion.

## 18 II. CONCLUSION

19 For the reasons set forth above and in the Motion, the Court should expressly determine  
20 that, under Nev. R. Civ. P. 54(b), there is no just reason for delay, and direct the entry of final

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26 <sup>4</sup> In situations addressing Rule 54(b) certification when fewer than all defendants have been  
27 dismissed, a plaintiff will, theoretically, invariably have the option to dismiss the remaining  
28 defendant or defendants if the plaintiff is unable to obtain Rule 54(b) certification from a court.  
Thus, the sheer fact that such an option exists cannot be enough to warrant a denial of a Rule 54(b)  
motion.

1 judgment in favor of the AP Defendants. The Court should grant this Motion.

2 Respectfully submitted this 30th day of October, 2018.

3 PETERSON BAKER, PLLC

4  
5  
6 By: /s/ Nikki L. Baker

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12 JONATHAN D. GRUNBERG, ESQ.

(admitted pro hac vice)

13 G. TAYLOR WILSON, ESQ.

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16 Facsimile: 404.506.9111

17 *Attorneys for Plaintiff Steve Wynn*



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to  
3 NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct  
4 copy of the foregoing PLAINTIFF STEVE WYNN'S REPLY IN SUPPORT OF MOTION FOR  
5 ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION to be submitted  
6 electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic  
7 Filing System on the 30<sup>th</sup> day of October, 2018, to the following:

8 JOEL E. TASCA, ESQ.  
9 tasca@ballardspahr.com  
10 JUSTIN A. SHIROFF, ESQ.  
11 shiroffj@ballardspahr.com  
12 BALLARD SPAHR LLP  
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14 Las Vegas, Nevada 89135  
15 *Attorneys for Defendants The Associated*  
16 *Press and Regina Garcia Cano*

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*Attorneys for Defendants The Associated*  
*Press and Regina Garcia Cano*

13 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing to be served  
14 via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court  
15 via the Court's Electronic Filing System on PLAINTIFF STEVE WYNN'S REPLY IN SUPPORT  
16 OF MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION on  
17 the day 30<sup>th</sup> of October, 2018, to the following address:

18 Halina Kuta  
19 17 W. Pinehurst Drive  
20 Laguna Vista, TX 78578  
21 *In Proper Person*

21 /s/ Erin L. Parcels  
22 An employee of Peterson Baker, PLLC  
23  
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[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New District Civil/Criminal Search](#) [Refine Search](#) [Close](#)

Location : District Court Civil/Criminal [Help](#)

## REGISTER OF ACTIONS

CASE NO. A-18-772715-C

Steve Wynn, Plaintiff(s) vs. Associated Press, Defendant(s)

§  
§  
§  
§  
§  
§

Case Type: **Other Tort**

Date Filed: **04/11/2018**

Location: **Department 28**

Cross-Reference Case Number: **A772715**

### PARTY INFORMATION

Defendant	Associated Press	<b>Lead Attorneys</b> <b>Joel E. Tasca</b> <i>Retained</i> 702-471-7000(W)
Defendant	Kuta, Halina	<b>Pro Se</b>
Plaintiff	Wynn, Steve	<b>Tamara Beatty Peterson</b> <i>Retained</i> 702-786-1001(W)

### EVENTS & ORDERS OF THE COURT

11/06/2018 **Motion** (9:00 AM) (Judicial Officer Israel, Ronald J.)  
*Motion for Entry of Final Judgment and Rule 54(b) Certification*

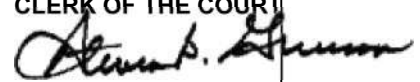
#### Minutes

11/06/2018 9:00 AM

- Upon Court's inquiry of the non-appearance of Ms. Kuta, Counsel thought Ms. Kuta might appear by telephone. Clerk noted there was no notice of a courtcall appearance today. Ms. Peterson had no opposition to the entry of the final judgment. Mr. Shiroff requested Ms. Kuta be dismissed for the appellate aspect. COURT ORDERED, Motion, GRANTED; 54 (b) Certification, GRANTED as to the Court's decision. Court DENIED the request to dismiss Ms. Kuta, she will remain in the case. Ms. Peterson to prepare the order.

[Parties Present](#)

[Return to Register of Actions](#)



RTRAN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STEVE WYNN,

Plaintiff,

CASE#: A-18-772715-C

DEPT. XXVIII

vs.

ASSOCIATED PRESS,

Defendant.

BEFORE THE HONORABLE RONALD J. ISRAEL, DISTRICT COURT JUDGE  
TUESDAY, NOVEMBER 8, 2018

***RECORDER'S TRANSCRIPT OF HEARING***  
**MOTION FOR ENTRY OF FINAL JUDGMENT**  
**AND RULE 54(B) CERTIFICATION**

**APPEARANCES:**

For the Plaintiff:

NIKKI L. BAKER, ESQ.  
TAMARA B. PETERSON, ESQ.

For the Defendant:

JUSTIN A. SHIROFF, ESQ.

RECORDED BY: JUDY CHAPPELL, COURT RECORDER

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Las Vegas, Nevada, Tuesday, November 8, 2018

[Case called at 9:08 a.m.]

THE CLERK: Case Number A772715, Steve Wynn versus  
Associated Press.

Oh, Mr. Shiroff had to go somewhere, I'm sure.

MS. PETERSON: Yeah, he did check in, I believe,  
Your Honor. So.

THE CLERK: He did. I'll –

THE COURT: All right. We'll trail it.

THE CLERK: -- recall it.

[Proceeding trailed at 9:08 a.m.]

[Proceeding recalled at 9:25 a.m.]

THE CLERK: Case Number A772715, Wynn versus  
Associated Press.

THE COURT: Counsel, state your appearance.

MS. PETERSON: Good morning, Your Honor. Tammy  
Peterson and Nikki Baker on behalf of Mr. Wynn.

MR. SHIROFF: And, good morning, Your Honor,  
Justin Shiroff on behalf of the Associated Press and Ms. Garcia-Cano.

THE COURT: Is Ms. Kuta here?

MS. PETERSON: She had mentioned to us at a Rule 16.1  
Conference that she may appear by phone. I don't know if she had made  
those arrangements or not.

1 THE CLERK: I didn't get any Court Call notice.

2 THE COURT: Okay.

3 MR. SHIROFF: And I have nothing – no additional information  
4 from the defendants, Your Honor.

5 THE COURT: All right. This is the Motion for Entry of Final  
6 Judgment and 54(b) Certification.

7 Anything to add?

8 MS. PETERSON: No, Your Honor, I think the Associated  
9 Press has said they don't object to the entry of final judgment on the  
10 defamation claim against the AP Defendants. So I think that makes it  
11 pretty easy. They haven't shown any – any –

12 THE COURT: There was a response. What was --

13 MS. PETERSON: -- haven't contested any issues on  
14 prejudice.

15 THE COURT: -- the response meaning to say that – other  
16 than you sort of agree, but what is it –

17 MR. SHIROFF: Conceptually, Your Honor, we understand  
18 and I think both sides are ready for the defamation claims and the  
19 anti-SLAPP for the appellate process. We thought – there's an aspect of  
20 it that might be cleaner if Ms. Kuta is dismissed, but we'd stand on the  
21 papers.

22 THE COURT: I don't think they were asking for Ms. Kuta to  
23 be dismissed. I agree with you that that's a whole separate thing. So the  
24 54(b) certification is as to my decision. So anyway, I'm going to go  
25 ahead and grant it.

1 As to Ms. Kuta is still in there. Mr. Wynn is still suing her. I  
2 don't know what – because, you know, I saw the response and it's not,  
3 well I really didn't know what you were asking for.

4 So anyway I'm granting 54(b).

5 MS. PETERSON: Thank you, Your Honor, –

6 MR. SHIROFF: Understood, Your Honor.

7 MS. PETERSON: -- we'll prepare the order.

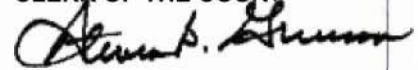
8 THE COURT: Okay. And it doesn't dismiss the case against  
9 Ms. Kuta.

10  
11 [Hearing concluded at 9:28 a.m.]

12 \* \* \* \* \*

13  
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19  
20 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
21 audio/video proceedings in the above-entitled case to the best of my ability.

22   
23 \_\_\_\_\_  
24 Judy Chappell  
25 Court Recorder/Transcriber



**OMG**

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*Attorneys for Plaintiff Steve Wynn*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**ORDER GRANTING MOTION FOR  
ENTRY OF FINAL JUDGMENT AND  
RULE 54(b) CERTIFICATION**

Date of Hearing: November 6, 2018

Time of Hearing: 9:00 a.m.

This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,



1 of Ballard Spahr LLP, appeared on behalf of Defendants The Associated Press and Regina Garcia  
2 Cano (the "AP Defendants"). Defendant Halina Kuta ("Ms. Kuta"), proceeding *pro se*, did not  
3 appear. The Court, having reviewed and considered the briefs filed by the parties and the papers  
4 on file herein, as well as the arguments made during the hearing, hereby finds as follows:

5 1. On August 23, 2018, the Court entered an "Order Granting Defendant's The  
6 Associated Press and Regina Garcia Cano's Special Motion to Dismiss" (the "anti-SLAPP Order").

7 2. In the anti-SLAPP Order, the Court dismissed with prejudice Mr. Wynn's Complaint  
8 as against the AP Defendants pursuant to NRS 41.660, resulting in the dismissal of the AP  
9 Defendants as parties to this action.

10 3. In their response to Mr. Wynn's Motion, the AP Defendants stated they "have no  
11 objection to the entry of a final judgment against Mr. Wynn on his defamation claim arising from  
12 that news report."

13 4. Ms. Kuta did not file any opposition to Mr. Wynn's Motion.

14 5. The AP Defendants and Defendant Kuta did not (i) dispute that Mr. Wynn will suffer  
15 prejudice if his appeal of the anti-SLAPP Order is delayed, (ii) claim that they will suffer any  
16 prejudice by the granting of Mr. Wynn's Motion, or (iii) refute that the prejudice to Mr. Wynn  
17 would be greater than the non-existent prejudice to Ms. Kuta and the AP Defendants. *See Mallin*  
18 *v. Farmers Ins. Exchange*, 106 Nev. 606, 611, 797 P.2d 978, 981-82 (1990) (setting forth three  
19 steps for determining whether "there is no just reason for delay," based on the elimination of a  
20 party).

21 6. Pursuant to NRCP 54(b) and the above findings, there is no just reason to delay  
22 certifying the finality of the anti-SLAPP Order and directing entry of a final judgment in favor of  
23 the AP Defendants.

24 7. The granting of Mr. Wynn's Motion has no impact on Mr. Wynn's claim against Ms.  
25 Kuta.

26 In light of the above findings and good cause appearing therefore, the Court orders as  
27 follows:  
28

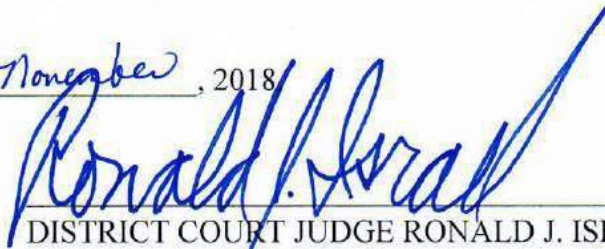


IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Mr. Wynn's Motion is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCPC 54(b).

IT IS SO ORDERED.

DATED this 20 day of November, 2018

  
DISTRICT COURT JUDGE RONALD J. ISRAEL <sup>4F</sup>

Case No. A-18-772715-C

Order Granting Motion for Entry of Final Judgment and  
Rule 54(b) Certification

Respectfully submitted by:



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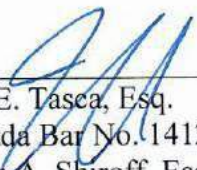
Facsimile: 404.506.9111

Attorneys for Plaintiff Steve Wynn

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Las Vegas, NV 89145  
702.786.1001

1 Reviewed and approved by:

2 BALLARD SPAHR LLP

3  
4 By: 

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5 Nevada Bar No. 14124

6 Justin A. Shiroff, Esq.

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9 Jay Ward Brown, Esq.

(admitted *pro hac vice*)

10 Chad R. Bowman, Esq.

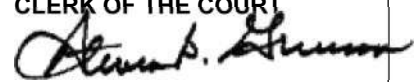
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12 Washington, DC 20006

Telephone: 202.661.2200

13  
14 *Attorney for Defendant The Associated Press and*  
*Regina Garcia Cano*



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Facsimile: 404.506.9111

*Attorneys for Plaintiff Steve Wynn*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION FOR ENTRY OF  
FINAL JUDGMENT AND RULE 54(b)  
CERTIFICATION**

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PLEASE TAKE NOTICE that an Order Granting Motion for Entry of Final Judgment and Rule 54(b) Certification ("Order") was entered on November 27, 2018. A copy of said Order is attached hereto.

Respectfully submitted this 27<sup>th</sup> day of November, 2018.

PETERSON BAKER, PLLC

By: /s/ Tamara Beatty Peterson

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Telephone: 404.891.1402

Facsimile: 404.506.9111

*Attorneys for Plaintiff Steve Wynn*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to NRCF 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27<sup>th</sup> day of November, 2018, to the following:

JOEL E. TASCA, ESQ.  
tasca@ballardspahr.com  
JUSTIN A. SHIROFF, ESQ.  
shiroffj@ballardspahr.com  
BALLARD SPAHR LLP  
1980 Festival Plaza Drive, Suite 900  
Las Vegas, Nevada 89135

*Attorneys for Defendants The Associated  
Press and Regina Garcia Cano*

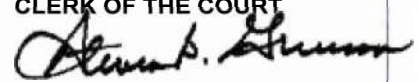
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bowmanchad@ballardspahr.com  
BALLARD SPAHR LLP  
1909 K Street, NW  
Washington DC 20006  
*Attorneys for Defendants The Associated  
Press and Regina Garcia Cano*

I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION** to be served via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27<sup>th</sup> day of November, 2018, to the following address:

Halina Kuta  
17 W. Pinehurst Drive  
Laguna Vista, TX 78578  
*In Proper Person*

/s/ Erin L. Parcels  
An employee of Peterson Baker, PLLC





**OMG**

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Facsimile: 404.506.9111

*Attorneys for Plaintiff Steve Wynn*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**ORDER GRANTING MOTION FOR  
ENTRY OF FINAL JUDGMENT AND  
RULE 54(b) CERTIFICATION**

Date of Hearing: November 6, 2018

Time of Hearing: 9:00 a.m.

This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,

1 of Ballard Spahr LLP, appeared on behalf of Defendants The Associated Press and Regina Garcia  
2 Cano (the "AP Defendants"). Defendant Halina Kuta ("Ms. Kuta"), proceeding *pro se*, did not  
3 appear. The Court, having reviewed and considered the briefs filed by the parties and the papers  
4 on file herein, as well as the arguments made during the hearing, hereby finds as follows:

5 1. On August 23, 2018, the Court entered an "Order Granting Defendant's The  
6 Associated Press and Regina Garcia Cano's Special Motion to Dismiss" (the "anti-SLAPP Order").

7 2. In the anti-SLAPP Order, the Court dismissed with prejudice Mr. Wynn's Complaint  
8 as against the AP Defendants pursuant to NRS 41.660, resulting in the dismissal of the AP  
9 Defendants as parties to this action.

10 3. In their response to Mr. Wynn's Motion, the AP Defendants stated they "have no  
11 objection to the entry of a final judgment against Mr. Wynn on his defamation claim arising from  
12 that news report."

13 4. Ms. Kuta did not file any opposition to Mr. Wynn's Motion.

14 5. The AP Defendants and Defendant Kuta did not (i) dispute that Mr. Wynn will suffer  
15 prejudice if his appeal of the anti-SLAPP Order is delayed, (ii) claim that they will suffer any  
16 prejudice by the granting of Mr. Wynn's Motion, or (iii) refute that the prejudice to Mr. Wynn  
17 would be greater than the non-existent prejudice to Ms. Kuta and the AP Defendants. *See Mallin*  
18 *v. Farmers Ins. Exchange*, 106 Nev. 606, 611, 797 P.2d 978, 981-82 (1990) (setting forth three  
19 steps for determining whether "there is no just reason for delay," based on the elimination of a  
20 party).

21 6. Pursuant to NRCP 54(b) and the above findings, there is no just reason to delay  
22 certifying the finality of the anti-SLAPP Order and directing entry of a final judgment in favor of  
23 the AP Defendants.

24 7. The granting of Mr. Wynn's Motion has no impact on Mr. Wynn's claim against Ms.  
25 Kuta.

26 In light of the above findings and good cause appearing therefore, the Court orders as  
27 follows:  
28

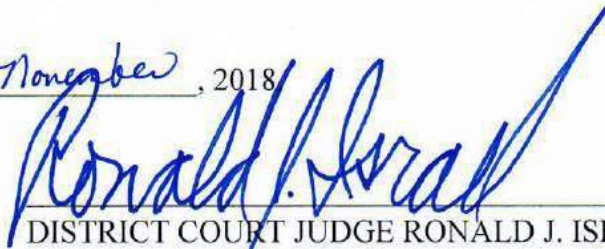


IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Mr. Wynn's Motion is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCPC 54(b).

IT IS SO ORDERED.

DATED this 20 day of November, 2018

  
DISTRICT COURT JUDGE RONALD J. ISRAEL <sup>4F</sup>

Case No. A-18-772715-C

Order Granting Motion for Entry of Final Judgment and  
Rule 54(b) Certification

Respectfully submitted by:



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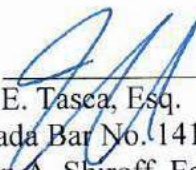
Attorneys for Plaintiff Steve Wynn

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702.786.1001



1 Reviewed and approved by:

2 BALLARD SPAHR LLP

3  
4 By: 

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5 Nevada Bar No. 14124

6 Justin A. Shiroff, Esq.

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8 Las Vegas, NV 89135

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9 Jay Ward Brown, Esq.

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10 Chad R. Bowman, Esq.

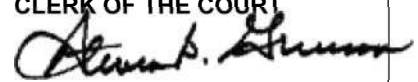
(admitted *pro hac vice*)

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12 Washington, DC 20006

Telephone: 202.661.2200

13  
14 *Attorney for Defendant The Associated Press and*  
*Regina Garcia Cano*



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Facsimile: 404.506.9111

*Attorneys for Plaintiff Steve Wynn*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**NOTICE OF APPEAL BY PLAINTIFF  
STEVE WYNN**

Notice is hereby given that Plaintiff Steve Wynn ("Mr. Wynn") appeals to the Supreme Court of Nevada from the District Court's "Order Granting Defendant's The Associated Press and Regina Garcia Cano's Special Motion to Dismiss" entered on August 23, 2018. (*See* Exhibit 1 attached hereto). In the District Court's "Order Granting Motion for Entry of Judgment and Rule 54(b) Certification" entered on November 27, 2018, the District Court made an express determination that there is no just reason for delay, included an express direction for entry of

1 judgment in favor of Defendants The Associated Press and Regina Garcia Cano, and certified the  
2 Order attached hereto as Exhibit 1 as final pursuant to Nev. R. Civ. P. 54(b). (*See* Exhibit 2 attached  
3 hereto.)

4 Respectfully submitted this 14th day of December, 2018.

5 PETERSON BAKER, PLLC

6  
7 By: /s/ Nikki L. Baker

8 TAMARA BEATTY PETERSON, ESQ., Bar No. 5218  
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19 *Attorneys for Plaintiff Steve Wynn*  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to  
3 NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct  
4 copy of the foregoing **NOTICE OF APPEAL BY PLAINTIFF STEVE WYNN** to be submitted  
5 electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic  
6 Filing System on the 14<sup>th</sup> day of December, 2018, to the following:

7 JOEL E. TASCA, ESQ.  
8 tasca@ballardspahr.com  
9 JUSTIN A. SHIROFF, ESQ.  
10 shiroffj@ballardspahr.com  
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14 *Attorneys for Defendants The Associated*  
15 *Press and Regina Garcia Cano*

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*Press and Regina Garcia Cano*

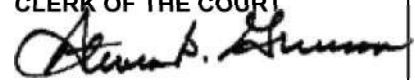
12 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF**  
13 **APPEAL BY PLAINTIFF STEVE WYNN** to be served via U.S. Mail, postage prepaid, to those  
14 parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System  
15 on the 14<sup>th</sup> day of December, 2018, to the following address:

16 Halina Kuta  
17 17 W. Pinehurst Drive  
18 Laguna Vista, TX 78578  
19 *In Proper Person*

20 /s/ Erin Parcels  
21 An employee of Peterson Baker, PLLC  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

# EXHIBIT 1



1 NOEJ  
Joel E. Tasca  
2 Nevada Bar No. 14124  
Justin A. Shiroff  
3 Nevada Bar No. 12869  
BALLARD SPAHR LLP  
4 1980 Festival Plaza Drive, Suite 900  
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6 Email: tasca@ballardspahr.com  
Email: shiroffj@ballardspahr.com  
7

*Attorneys for Defendants  
The Associated Press and Regina Garcia Cano*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 STEVE WYNN, an individual	) Case No. A-18-772715-C
12 Plaintiffs,	) Dept. No. 28
13 v.	)
14 THE ASSOCIATED PRESS, a foreign	)
15 corporation; REGINA GARCIA CANO, an	)
individual; and HALINA KUTA, an	)
16 individual; DOES I-X,	)
Defendants.	)

**NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS**

PLEASE TAKE NOTICE that on the 23rd day of August, 2018, the Clerk of the Court entered an Order Granting Defendants' The Associated Press and Regina Garcia Cano's Special Motion to Dismiss in the above-referenced matter.

A copy of said Order is attached hereto as Exhibit 1.

///

///

///

1 Dated: August 23, 2018.

2 BALLARD SPAHR LLP

3  
4 By: /s/ Justin A. Shiroff

5 Joel E. Tasca

6 Nevada Bar No. 14124

7 Justin A. Shiroff

8 Nevada Bar No. 12869

9 1980 Festival Plaza Drive, Suite 900

10 Las Vegas, Nevada 89135

11 *Attorneys for Defendants*

12 *The Associated Press and Regina Garcia*

13 *Cano*

14  
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BALLARD SPAHR LLP  
1980 FESTIVAL PLAZA DRIVE, SUITE 900  
LAS VEGAS, NEVADA 89135  
(702) 471-7000 FAX (702) 471-7070

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 23rd day of August, 2018, and pursuant to  
3 N.R.C.P. 5(b), I filed and served a true and correct copy of the foregoing NOTICE OF  
4 ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED PRESS AND  
5 REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS on the following  
6 parties via the Court's electronic service system:

7  
8 Tamara Beatty Peterson, Esq.  
9 Nikki L. Baker, Esq.  
10 PETERSON BAKER, PLLC  
1001 Park Run Drive  
Las Vegas, NV 89145

11 L. Lin Wood, Esq. (pro hac pending)  
12 Nicole J. Wade, Esq. (pro hac pending)  
13 G. Taylor Wilson, Esq. (pro hac pending)  
14 L. LIN WOOD, P.C.  
1180 West Peachtree Street, Suite 2400  
Atlanta, GA 30309

15 *Attorneys for Plaintiffs*  
16  
17

18 /s/ Sarah H. Walton  
19 An Employee of Ballard Spahr LLP  
20  
21  
22  
23  
24  
25  
26  
27  
28



# EXHIBIT 1

# EXHIBIT 1

JUDGE RONALD J. ISRAEL  
EIGHTH JUDICIAL DISTRICT COURT  
DEPARTMENT 28  
Regional Justice Center  
200 Lewis Avenue, 15<sup>th</sup> Floor  
Las Vegas, Nevada 89155

DISTRICT COURT  
CLARK COUNTY, NEVADA

STEVE WYNN, an individual  
Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,  
Defendants.

Case No.: A-18-772715-C  
Dept.: XXVIII

ORDER GRANTING DEFENDANT'S  
THE ASSOCIATED PRESS AND  
REGINA GARCIA CANO'S SPECIAL  
MOTION TO DISMISS

ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND  
REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS

This matter came before the Court on Defendants The Associated Press ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18, 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in support of their Motion on August 7, 2018.

On August 14, 2018, the Court heard oral argument on the Motion. L. Lin Wood, Esq. of L. Lin Wood, P.C., and Tamara Beatty Peterson, Esq., and Nikki L. Baker, Esq. of Peterson Baker, PLLC appeared on behalf of Wynn; Jay Ward

No. 77708

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IN THE SUPREME COURT OF THE STATE OF NEVADA

---

STEVE WYNN, AN INDIVIDUAL,

*Appellant,*

vs.

THE ASSOCIATED PRESS, A FOREIGN CORPORATION; AND  
REGINA GARCÍA CANO, AN INDIVIDUAL,

*Respondents.*

---

Appeal from judgment entered by the Eighth Judicial District Court, The  
Honorable Ronald J. Israel, District Court Case No. A-18-772715-C

---

**JOINT APPENDIX**

**VOLUME 2 OF 2**

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## **ALPHABETICAL INDEX TO JOINT APPENDIX**

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Complaint for Defamation	04.11.18	1	1-31
Court Minutes of Hearing on Defendants Associated Press and Regina Garcia Cano's Special Motion to Dismiss Pursuant to N.R.S. § 41.660 Anti-SLAPP Statute	08.14.18	1	234-235
Court Minutes of Hearing on Motion for Entry of Final Judgment and Rule 54(b) Certification	11.06.18	2	292
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Notice of Entry of Stipulation and Order to Continue July 31 Hearing on The Associated Press Defendants' Special Motion to Dismiss on Issue of Fair Report Privilege	07.30.18	1	210-216
Notice of Entry of Stipulation and Order to Extend Time to Respond to Complaint (First Request)	05.04.18	1	39-44

<b><u>Document</u></b>	<b><u>Date</u></b>	<b><u>Vol.</u></b>	<b><u>Page Nos.</u></b>
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<b><u>Document</u></b>	<b><u>Date</u></b>	<b><u>Vol.</u></b>	<b><u>Page Nos.</u></b>
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## **CHRONOLOGICAL INDEX TO JOINT APPENDIX**

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Notice of Entry of Stipulation and Order to Continue Hearing on Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 and Set Briefing Schedule (First Request)	06.13.18	1	114-121
Stipulation and Order Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660	07.05.18	1	122-126
Notice of Entry of Stipulation and Order Regarding Defendants' Special Motion to Dismiss Pursuant to 41.660	07.05.18	1	127-135
Opposition to The Associated Press Defendants' Special Motion to Dismiss on Issue of Fair Report Privilege	07.17.18	1	136-205

<b><u>Document</u></b>	<b><u>Date</u></b>	<b><u>Vol.</u></b>	<b><u>Page Nos.</u></b>
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1           The Defendants -- or excuse me, the Plaintiffs were arguing  
2 that only judicial proceedings I do not think Nevada has limited in that  
3 regard. The Plaintiffs, again argued that it would be expanding the  
4 statute by allowing this, I guess, or adding this. I totally disagree, I think  
5 it's clearly been a part of it.

6           Although, generally, it's not -- doesn't go without notice, but  
7 several of these cases are prominent Las Vegas, Nevada individuals,  
8 but it's clear to me that it is a communication made in direct connection  
9 with an issue of public interest. It was clearly a public interest at the  
10 time, maybe still. That's not relevant at this -- but in a place open to the  
11 public, in the newspaper, or in a public forum.

12           Now, which is truthful or is made without knowledge of its  
13 falsehood. The article incorporated probably 90 percent of the police  
14 report and I don't think Nevada follows, was it Michigan, whatever, the  
15 other state's decision where it has to be -- or it can't just be a police  
16 report, it has to be somehow further proceedings verifying the  
17 authenticity.

18           The report -- the news article says it's from the report, it gives  
19 the origin of it. It doesn't say this is verified, whatever, information. It  
20 attributes it to the unverified complaints to the police. It even, although  
21 briefly, doesn't -- it doesn't in depth, it doesn't, if you will, detail the  
22 Plaintiff's view of -- or interpretation of the woman's allegations, but  
23 nothing in the statute or case law requires an in-depth interpretation. It's  
24 truthful, it -- because it discusses the near allegations. Allegations  
25 dating back 47 years -- 40 -- yeah, 47 years at the time and it states that.

1           So, without the knowledge of falsehood that -- the Plaintiffs  
2 claim is that with I guess investigation one could argue that the certainly  
3 allegation of Ms. Kuta is without merit and that was determined by a  
4 Federal District Court, but the Defendant argues that certainly one could  
5 also argue that potentially she might be delusional because of the  
6 claims. All of this is not the subject of this bifurcated hearing, this is just  
7 to determine whether the first part -- whether they met their burden, if  
8 you will, on the first part and I find that they do.

9           So I think I've read this now twice, but 41.6374:  
10 Communication made in direct connection with an issue of public  
11 interest in a place open to the public or in a public forum, which is  
12 truthful or made without knowledge of its falsehood.

13           We'll get to the -- everybody's eluded to the second issue --  
14 later.

15           So I think I covered everything. I don't think the 1997 case  
16 that was discussed applies. It's certainly not on point. Well, hopefully I  
17 addressed all the issues.

18           Defendant to prepare the order and pass it by the Plaintiff.

19           MR BROWN: Your Honor, just one point of clarification.

20           THE COURT: Sure.

21           MR BROWN: I understand that you ruled that the anti-SLAPP  
22 statute applies. Are you also ruling that the fair report privilege applies  
23 to the news article?

24           THE COURT: Yes.

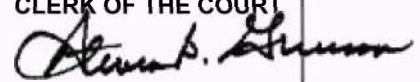
25           MR BROWN: Thank you, Your Honor.

1 THE COURT: I guess I didn't state that.  
2 Okay. Thank you.  
3 MR BROWN: Thank you, Your Honor.  
4 MR. WOOD: Thank you, Your Honor.  
5 THE CLERK: So the motion is granted?  
6 THE COURT: Yes, the motion -- although the motion doesn't  
7 talk about the bifurcation per se, the motion is granted as to the  
8 stipulation that only the first part would be decided today.  
9 Okay.  
10 MR BROWN: Thank you, Your Honor.  
11 MR. SHIROFF: Thank you, Your Honor.  
12 [Proceeding concluded at 9:46 a.m.]

13 \* \* \* \* \*

14  
15  
16  
17  
18  
19  
20  
21 ATTEST: I do hereby certify that I have truly and correctly transcribed  
22 the audio/video proceedings in the above-entitled case to the best of my  
23 ability.

24   
25 Brittany Mangelson  
Independent Transcriber



JUDGE RONALD J. ISRAEL  
EIGHTH JUDICIAL DISTRICT COURT  
DEPARTMENT 28  
Regional Justice Center  
200 Lewis Avenue, 15<sup>th</sup> Floor  
Las Vegas, Nevada 89155

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual  
Plaintiff,

Case No.: A-18-772715-C  
Dept.: XXVIII

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,  
Defendants.

**ORDER GRANTING DEFENDANT'S  
THE ASSOCIATED PRESS AND  
REGINA GARCIA CANO'S SPECIAL  
MOTION TO DISMISS**

**ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND  
REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS**

This matter came before the Court on Defendants The Associated Press ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18, 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in support of their Motion on August 7, 2018.

On August 14, 2018, the Court heard oral argument on the Motion. L. Lin Wood, Esq. of L. Lin Wood, P.C., and Tamara Beatty Peterson, Esq., and Nikki L. Baker, Esq. of Peterson Baker, PLLC appeared on behalf of Wynn; Jay Ward



1 Brown, Esq. and Justin A. Shiroff, Esq. of Ballard Spahr LLP appeared on behalf of  
2 Defendants. Having considered the Motion, Opposition, and Reply, as well as the  
3 arguments of counsel, the Court hereby finds and orders as follows:

4 FACTS & PROCEDURE

5 This case stems from an article published by the Associated Press and  
6 written by Regina Garcia Cano on February 27, 2018. The AP article was based on  
7 the police report entered on February 7, 2018, by two (2) individuals alleging prior  
8 conduct that occurred in the 1970's by Plaintiff, Steve Wynn. A copy of the article  
9 was attached as Exhibit # 3 to the Complaint. Plaintiff filed a Complaint against AP,  
10 Regina Cano and Halina Kuta alleging various causes of action including,  
11 Defamation by all parties. The Article outlines the allegations made to the police by  
12 the two complainants, including one made by Defendant Kuta against Plaintiff Wynn.

13 On July 5, 2018, Wynn and Defendants entered into a Stipulation and Order  
14 Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 (the  
15 "Stipulation"). The Stipulation included modifications both to this Court's scheduling  
16 for the hearing and to the Court's consideration of the grounds argued by  
17 Defendants in their Motion.

18 The Stipulation was entered between the parties prior to the Hearing  
19 specifically setting forth that Defendants argued in their Motion "that N.R.S. §41.660  
20 [the 'Nevada Anti-SLAPP Statute'] applies and that Wynn cannot demonstrate a  
21 likelihood of success, as required under the statute, for two separate reasons: first,  
22 that the reporting by the Defendants is privileged; and second, that Wynn cannot  
23 demonstrate fault." Stipulation at 2 (citations omitted). Wynn and the Defendants  
24 stipulated "that discovery is not necessary to resolve the first basis for the motion,  
25 i.e., whether the challenged news report is subject to the fair reporting privilege as a  
26 matter of law." Id. Wynn and the Defendants further stipulated and the Court  
27 ordered that, at the hearing on the Motion (then set for July 31, 2018, but later  
28 moved to August 14, 2018), "the Court shall consider the fair reporting privilege

1 under the Nevada Anti-SLAPP Statute, a question of law." Id. at 3. Wynn and the  
2 Defendants further stipulated and the Court ordered that, "[i]f the Court finds the  
3 reporting in this case not to be covered by the fair reporting privilege, the Court shall  
4 continue to a second hearing to consider the issue of fault[.]" Id. (emphasis added).

#### 5 FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER

6 "Under Nevada's anti-SLAPP statutes, a defendant may file a special motion  
7 to dismiss if the defendant can show 'by a preponderance of the evidence, that the  
8 claim is based upon a good faith communication in furtherance of the right to petition  
9 or the right to free speech in direct connection with an issue of public concern.'" NRS  
10 § 41.660(3)(a); Shapiro v. Welt, 133 Nev. Adv. Op. 6, 389 P.3d 262, 267 (2017).

11 NRS 41.637(4) defines a "[g]ood faith communication in furtherance of the  
12 right to petition or the right to free speech in direct connection with an issue of public  
13 concern" as any "[c]ommunication made in direct connection with an issue of public  
14 interest in a place open to the public or in a public forum, which is *truthful or is made*  
15 *without knowledge of its falsehood*." Id. (Emphasis added).

16 The Court finds the News article fairly reported information that was the  
17 subject of the News article, i.e., the police reports filed by the two (2) complainants.  
18 Additionally, the News article clearly states that the information was obtained from  
19 copies of police reports that were recently filed. Plaintiff argued that additional  
20 information should have been included in the News article, which in turn, would have  
21 led readers of the article to reach their own conclusion as to the truth of the  
22 allegations made to the police. However, Plaintiff's argument is misplaced because  
23 the police report did not provide the names of the complainants.

24 The Court finds that the reporter accurately described the Police reports, and  
25 therefore, the privilege is absolute. The Court further finds that the Nevada fair  
26 reporting privilege applies to the news report at issue and, therefore, pursuant to the  
27 parties' stipulation, no hearing on the issue of fault is required. The Nevada Anti-  
28 SLAPP statute applies in this case; therefore,




**ORDER**

**IT IS ORDERED** that the Motion is **GRANTED** and the Complaint shall be **DISMISSED WITH PREJUDICE** as against the Associated Press and Garcia Cano pursuant to Nev. Rev. Stat. § 41.660.

**IT IS SO ORDERED.**

DATED: August 23, 2018

  
\_\_\_\_\_  
District Court Judge  
Ronald J. Israel  
Case No. A-18-772715-C  
*Order Granting Defendant's The Associated Press  
And Regina Garcia Cano's Special Motion To  
Dismiss*





**CERTIFICATE OF SERVICE**

I hereby certify that on the 23 day of August, 2018, a copy of this **ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:



JUDICIAL EXECUTIVE ASSISTANT

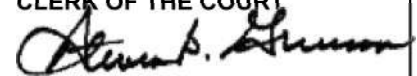
SANDRA JETER

A-18-772715-C

## File Into Existing Case

Service Contacts: A-18-772715-C				
Case Number	Name	Location	Description	Case Type
A-18-772715-C	Department 20		Steve Wynn, Plaintiff(s) v...	Other Tort
1	▼ Party: Steve Wynn - Plaintiff			1 - 1 of 1 items
		20 items per page		
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	Las Vegas Intake		LVCTIntake@ballardspahr.com	
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	Las Vegas Intake		LVCTIntake@ballardspahr.com	
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	Joel E. Tasca		tasca@ballardspahr.com	
	► Party: Halina Kuta - Defendant			
	► Other Service Contacts			
1		10 items per page		1 - 5 of 5 items

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*Attorneys for Defendants  
The Associated Press and Regina Garcia Cano*

8  
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 STEVE WYNN, an individual	) Case No. A-18-772715-C
12 Plaintiffs,	) Dept. No. 28
13 v.	)
14 THE ASSOCIATED PRESS, a foreign	)
15 corporation; REGINA GARCIA CANO, an	)
individual; and HALINA KUTA, an	)
16 individual; DOES I-X,	)
Defendants.	)

17  
18  
19 NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED  
PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS

20 PLEASE TAKE NOTICE that on the 23rd day of August, 2018, the Clerk of  
21 the Court entered an Order Granting Defendants' The Associated Press and Regina  
22 Garcia Cano's Special Motion to Dismiss in the above-referenced matter.  
23

24 A copy of said Order is attached hereto as Exhibit 1.

25 ///

26 ///

27 ///

28

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LAS VEGAS, NEVADA 89135  
(702) 471-7000 FAX (702) 471-7070

1 Dated: August 23, 2018.

2 BALLARD SPAHR LLP

3  
4 By: /s/ Justin A. Shiroff

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6 Nevada Bar No. 14124

7 Justin A. Shiroff

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(702) 471-7000 FAX (702) 471-7070

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 23rd day of August, 2018, and pursuant to  
3 N.R.C.P. 5(b), I filed and served a true and correct copy of the foregoing NOTICE OF  
4 ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED PRESS AND  
5 REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS on the following  
6 parties via the Court's electronic service system:

7  
8 Tamara Beatty Peterson, Esq.  
9 Nikki L. Baker, Esq.  
10 PETERSON BAKER, PLLC  
1001 Park Run Drive  
Las Vegas, NV 89145

11 L. Lin Wood, Esq. (pro hac pending)  
12 Nicole J. Wade, Esq. (pro hac pending)  
13 G. Taylor Wilson, Esq. (pro hac pending)  
14 L. LIN WOOD, P.C.  
1180 West Peachtree Street, Suite 2400  
Atlanta, GA 30309

15 *Attorneys for Plaintiffs*

16  
17  
18 /s/ Sarah H. Walton  
19 An Employee of Ballard Spahr LLP  
20  
21  
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27  
28

# EXHIBIT 1

# EXHIBIT 1

JUDGE RONALD J. ISRAEL  
EIGHTH JUDICIAL DISTRICT COURT  
DEPARTMENT 28  
Regional Justice Center  
200 Lewis Avenue, 15<sup>th</sup> Floor  
Las Vegas, Nevada 89155

DISTRICT COURT  
CLARK COUNTY, NEVADA

STEVE WYNN, an individual  
Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C  
Dept.: XXVIII

ORDER GRANTING DEFENDANT'S  
THE ASSOCIATED PRESS AND  
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MOTION TO DISMISS

ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND  
REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS

This matter came before the Court on Defendants The Associated Press ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18, 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in support of their Motion on August 7, 2018.

On August 14, 2018, the Court heard oral argument on the Motion. L. Lin Wood, Esq. of L. Lin Wood, P.C., and Tamara Beatty Peterson, Esq., and Nikki L. Baker, Esq. of Peterson Baker, PLLC appeared on behalf of Wynn; Jay Ward

1 Brown, Esq. and Justin A. Shiroff, Esq. of Ballard Spahr LLP appeared on behalf of  
2 Defendants. Having considered the Motion, Opposition, and Reply, as well as the  
3 arguments of counsel, the Court hereby finds and orders as follows:

4 FACTS & PROCEDURE

5 This case stems from an article published by the Associated Press and  
6 written by Regina Garcia Cano on February 27, 2018. The AP article was based on  
7 the police report entered on February 7, 2018, by two (2) individuals alleging prior  
8 conduct that occurred in the 1970's by Plaintiff, Steve Wynn. A copy of the article  
9 was attached as Exhibit # 3 to the Complaint. Plaintiff filed a Complaint against AP,  
10 Regina Cano and Halina Kuta alleging various causes of action including,  
11 Defamation by all parties. The Article outlines the allegations made to the police by  
12 the two complainants, including one made by Defendant Kuta against Plaintiff Wynn.

13 On July 5, 2018, Wynn and Defendants entered into a Stipulation and Order  
14 Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 (the  
15 "Stipulation"). The Stipulation included modifications both to this Court's scheduling  
16 for the hearing and to the Court's consideration of the grounds argued by  
17 Defendants in their Motion.

18 The Stipulation was entered between the parties prior to the Hearing  
19 specifically setting forth that Defendants argued in their Motion "that N.R.S. §41.660  
20 [the 'Nevada Anti-SLAPP Statute'] applies and that Wynn cannot demonstrate a  
21 likelihood of success, as required under the statute, for two separate reasons: first,  
22 that the reporting by the Defendants is privileged; and second, that Wynn cannot  
23 demonstrate fault." Stipulation at 2 (citations omitted). Wynn and the Defendants  
24 stipulated "that discovery is not necessary to resolve the first basis for the motion,  
25 i.e., whether the challenged news report is subject to the fair reporting privilege as a  
26 matter of law." Id. Wynn and the Defendants further stipulated and the Court  
27 ordered that, at the hearing on the Motion (then set for July 31, 2018, but later  
28 moved to August 14, 2018), "the Court shall consider the fair reporting privilege



1 under the Nevada Anti-SLAPP Statute, a question of law." *Id.* at 3. Wynn and the  
2 Defendants further stipulated and the Court ordered that, "[i]f the Court finds the  
3 reporting in this case not to be covered by the fair reporting privilege, the Court shall  
4 continue to a second hearing to consider the issue of fault[.]" *Id.* (emphasis added).

5 FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER

6 "Under Nevada's anti-SLAPP statutes, a defendant may file a special motion  
7 to dismiss if the defendant can show 'by a preponderance of the evidence, that the  
8 claim is based upon a good faith communication in furtherance of the right to petition  
9 or the right to free speech in direct connection with an issue of public concern.'" NRS  
10 § 41.660(3)(a); *Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d 262, 267 (2017).

11 NRS 41.637(4) defines a "[g]ood faith communication in furtherance of the  
12 right to petition or the right to free speech in direct connection with an issue of public  
13 concern" as any "[c]ommunication made in direct connection with an issue of public  
14 interest in a place open to the public or in a public forum, which is *truthful or is made*  
15 *without knowledge of its falsehood.*" *Id.* (Emphasis added).

16 The Court finds the News article fairly reported information that was the  
17 subject of the News article, i.e., the police reports filed by the two (2) complainants.  
18 Additionally, the News article clearly states that the information was obtained from  
19 copies of police reports that were recently filed. Plaintiff argued that additional  
20 information should have been included in the News article, which in turn, would have  
21 led readers of the article to reach their own conclusion as to the truth of the  
22 allegations made to the police. However, Plaintiff's argument is misplaced because  
23 the police report did not provide the names of the complainants.

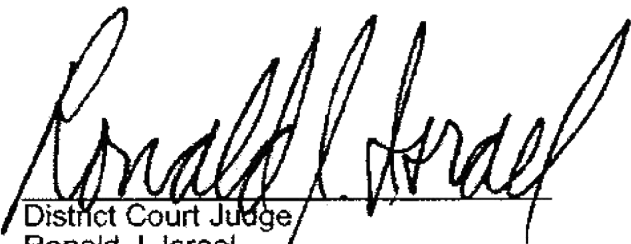
24 The Court finds that the reporter accurately described the Police reports, and  
25 therefore, the privilege is absolute. The Court further finds that the Nevada fair  
26 reporting privilege applies to the news report at issue and, therefore, pursuant to the  
27 parties' stipulation, no hearing on the issue of fault is required. The Nevada Anti-  
28 SLAPP statute applies in this case; therefore,

**ORDER**

IT IS ORDERED that the Motion is **GRANTED** and the Complaint shall be **DISMISSED WITH PREJUDICE** as against the Associated Press and Garcia Cano pursuant to Nev. Rev. Stat. § 41.660.


IT IS SO ORDERED.

DATED: August 23, 2018

  
District Court Judge  
Ronald J. Israel


Case No. A-18-772715-C

Order Granting Defendant's The Associated Press  
And Regina Garcia Cano's Special Motion To  
Dismiss



CERTIFICATE OF SERVICE

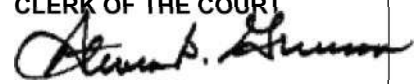
I hereby certify that on the 23 day of August, 2018, a copy of this **ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:

  
JUDICIAL EXECUTIVE ASSISTANT  
SANDRA JETER  
A-18-772715-C

## File Into Existing Case

Service Contacts: A-18-772715-C

Case Number	Name	Location	Description	Email	Case Type
A-18-772715-C	Department 20		Steve Wynn, Plaintiff vs...		Order For
1	▼ Party: Steve Wynn - Plaintiff				1 - 1 of 1 items
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	► Other Service Contacts				
1	10 items per page				1 - 5 of 5 items



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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVE WYNN, an individual,  
  
Plaintiff,  
  
v.

THE ASSOCIATED PRESS, a foreign  
corporation; REGINA GARCIA CANO, an  
individual; and HALINA KUTA, an  
individual; DOES I-X,  
  
Defendants.

Case No.: A-18-772715-C  
Dept. No.: XXVIII

**MOTION FOR ENTRY OF FINAL  
JUDGMENT AND RULE 54(b)  
CERTIFICATION**

**Date of Hearing:**

**Time of Hearing:**

Plaintiff Steve Wynn, by and through his attorneys, hereby moves the Court for an order determining that there is no just reason for delay under Nev. R. Civ. P. 54(b) and directing entry of final judgment in favor of Defendants The Associated Press ("AP") and Regina Garcia Cano (collectively, the "AP Defendants").

1 This Motion is made pursuant to Nev. R. Civ. P. 54(b) and is supported by the Memorandum  
2 of Points and Authorities below, the pleadings and papers on file herein, and any oral argument the  
3 Court chooses to consider.

4 Respectfully submitted this 25<sup>th</sup> day of September, 2018.

5  
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**NOTICE OF MOTION**

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

YOU, and each of you, will please take notice that the undersigned will bring the MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION on for hearing before the above-entitled Court located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155, on the 6th day of November, 2018, at 9:00 a.m./~~p.m.~~ of said day in Department XXVIII, Courtroom 15C of said Court.

DATED this 25<sup>th</sup> day of September, 2018.

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Mr. Wynn respectfully requests that the Court direct the entry of final judgment as to the AP Defendants under Nev. R. Civ. P. 54(b), thereby allowing Mr. Wynn to appeal the Court's order on the AP Defendants' anti-SLAPP Motion dismissing the defamation claim against them with prejudice ("anti-SLAPP Order"). The anti-SLAPP Order dismissed some, but not all, of the defendants in this lawsuit. Thus, that order is not appealable until (1) the lawsuit terminates as to all defendants or (2) the Court finds there is no just reason for delaying an appeal and enters final judgment as to the AP Defendants.

The Court should find that there is no just reason to delay Mr. Wynn's appeal of the anti-SLAPP Order. Judgment is effectively final as to the AP Defendants, as the claim against them has been dismissed with prejudice. The prejudice to Mr. Wynn in delaying his appeal until he resolves his claim against Defendant Kuta outweighs the nonexistent prejudice the appeal could cause to Defendant Kuta. That is, unless the Court enters final judgment, Mr. Wynn may have to wait several additional years to appeal the anti-SLAPP Order. Such delay is inherently prejudicial to a plaintiff, who is forced to wait on the appellate review to know if he will be allowed to redress the reputational harm he has suffered and continues to suffer. An appeal at the earliest possible time minimizes some of this damage from delay if the appeal is successful. On the other hand, Defendant Kuta will not suffer any prejudice from an immediate appeal, as the issues she faces and those to be appealed are separate and distinct. Mr. Wynn would posit that the AP Defendants would also welcome the opportunity to have the ruling reviewed at the earliest possible time. This Motion should be granted.

### **II. BRIEF FACTUAL AND PROCEDURAL BACKGROUND**

#### **A. The AP Defendants Publish an Unfair Article About the False Police Report.**

Mr. Wynn will not rehash the delusional and fanciful statements made by Defendant Kuta in the false police report, which were omitted from the article at issue. Instead, Mr. Wynn incorporates herein by reference the facts, legal authority, and evidence submitted in his "Opposition to The Associated Press Defendants' Special Motion to Dismiss on Issue of Fair Report



1 Privilege" filed on July 17, 2018 ("anti-SLAPP Opposition"), and the oral arguments made at the  
2 hearing on the same.

3 The salient fact for this Motion is that on or about February 28, 2018, the AP Defendants  
4 published the false and defamatory AP Article entitled, "APNewsBreak: Woman tells police Steve  
5 Wynn raped her in '70s." (*See* Compl. at Ex. 3.) The AP Article republished the false rape  
6 accusations relying primarily on portions of Defendant Kuta's delusional and fanciful false police  
7 report. (*Id.*)

8 **B. After Failing to Issue a Retraction, Mr. Wynn Commences This Defamation**  
9 **Action Against the AP Defendants and Defendant Kuta.**

10 Mr. Wynn demanded in writing a retraction from the AP. (*See* Compl. at ¶ 95.) The AP  
11 declined. (*Id.* at ¶ 96.) As a result, Mr. Wynn was forced to file his Complaint for Defamation  
12 against the AP Defendants and Defendant Kuta on April 11, 2018, to defend his reputation.

13 Mr. Wynn's sole claim for relief in his Complaint is for defamation against all defendants.  
14 Mr. Wynn posits in the Complaint that, on one hand, Defendant Kuta is liable for defamation  
15 because she, among other wrongdoing, "falsely, maliciously, and otherwise published in bad faith  
16 the accusation that Mr. Wynn broke into her apartment and raped her and that Defendant Kuta gave  
17 birth to Mr. Wynn's daughter, Kevyn." (*See* Compl. at ¶ 73.) On the other hand, Mr. Wynn seeks  
18 to hold the AP Defendants liable for, among other wrongdoing, "publish[ing] without privilege the  
19 AP Article conveying the false and defamatory gist that Mr. Wynn is a criminal who broke into  
20 Defendant Kuta's home and raped her on multiple occasions." (*Id.* at ¶ 75.) Simply put, the  
21 Complaint seeks to hold Defendant Kuta liable for telling the lie and to hold the AP Defendants  
22 liable for unfairly republishing only portions of the lie.

23 **C. The AP Defendants File an anti-SLAPP Motion.**

24 Defendant Kuta neither moved to dismiss the Complaint nor filed an anti-SLAPP motion.  
25 The AP Defendants filed their anti-SLAPP Motion on May 31, 2018, arguing that the AP Article  
26 is protected under the absolute fair report privilege and that Mr. Wynn cannot prove they published  
27 with actual malice. (*See generally* anti-SLAPP Motion.)  
28

On July 5, 2018, the Court approved the parties' stipulation (the "July Order"), which provided that the Court would first decide if the absolute fair report privilege protects the AP Article. (*See* July Order at 4:27-28.) If the Court concluded the AP Article was not a fair, accurate, and impartial report, it would defer ruling on the rest of the anti-SLAPP Motion, allowing the parties to agree to a limited discovery timeframe on the issue of actual malice. (*Id.* at 5:1-4.)

**D. The Court Grants the AP Defendants' anti-SLAPP Motion and Dismisses the Complaint with Prejudice as Against the AP Defendants.**

At the hearing held on August 14, 2018, the Court issued an oral pronouncement on the AP Defendants' anti-SLAPP Motion. The Court ultimately wrote its anti-SLAPP Order, entered on August 23, 2018, dismissing with prejudice the Complaint as to the AP Defendants. (*See* anti-SLAPP Order at 4:2-4.) Citing to Nevada's anti-SLAPP statute (NRS 41.660(3) and NRS 41.637(4)), the Court found that the AP Article "fairly reported" the information in Defendant Kuta's police report for two reasons: (1) the AP Article states the information was obtained from the police report; and (2) the police report "did not provide the names of the complainants." (*See* anti-SLAPP Order at 3:16-23.) The Court concluded that the AP Article "accurately described the Police reports, and therefore, the privilege is absolute." (*Id.* at 3:24-25.) The Court determined that the "Nevada fair reporting privilege applies to the news report at issue" and that the Nevada anti-SLAPP statute "applies in this case." (*Id.* at 3:24-28.)

**III. DISCUSSION**

A party wishing to immediately appeal an order dismissing fewer than all the parties must obtain an express determination of "final judgment" from the district court under Nev. R. Civ. P. 54(b), which provides in pertinent part:

**Judgment Involving Multiple Parties.** When multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment.