

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,

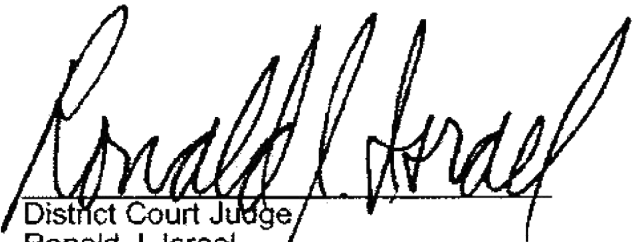
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ORDER


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



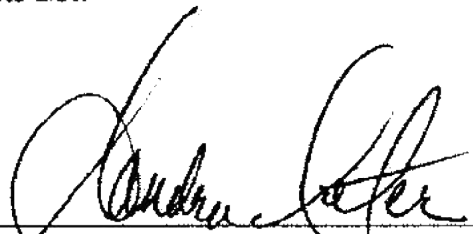
District Court Judge
Ronald J. Israel
Case No. A-18-772715-C
*Order Granting Defendant's The Associated Press
And Regina Garcia Cano's Special Motion To
Dismiss*



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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

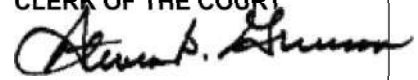
File Into Existing Case

Service Contacts: A-18-772715-C

Case Number	Name	Location	Description	Email	Case Type
A-18-772715-C	Department: 20		Steve Wynn, Plaintiff(s)...		Order Form
	▼ Party: Steve Wynn - Plaintiff				
1		20	items per page		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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13 *Attorneys for Plaintiff Steve Wynn*

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

16 STEVE WYNN, an individual,
17
Plaintiff,
18 v.
19 THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
20 individual; and HALINA KUTA, an
individual; DOES I-X,
21
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**

23 ///
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Las Vegas, NV 89145
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1 PLEASE TAKE NOTICE that an Order Granting Motion for Entry of Final Judgment and
2 Rule 54(b) Certification ("Order") was entered on November 27, 2018. A copy of said Order is
3 attached hereto.

4 Respectfully submitted this 27th day of November, 2018.

5 PETERSON BAKER, PLLC

6
7 By: /s/ Tamara Beatty Peterson
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to
3 NRCF 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 ENTRY OF ORDER GRANTING 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 27th day of November, 2018, to the following:

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16 *Press and Regina Garcia Cano*

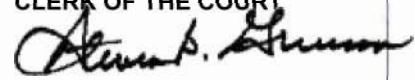
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Attorneys for Defendants The Associated
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13 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF**
14 **ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND**
15 **RULE 54(b) CERTIFICATION** to be served via U.S. Mail, postage prepaid, to those parties not
16 registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the
17 27th day of November, 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

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13 *Attorneys for Plaintiff Steve Wynn*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 STEVE WYNN, an individual,

17 Plaintiff,

18 v.

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

22 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.

23
24 This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's
25 "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018
26 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson
27 Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,
28

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11-15-18
28

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.

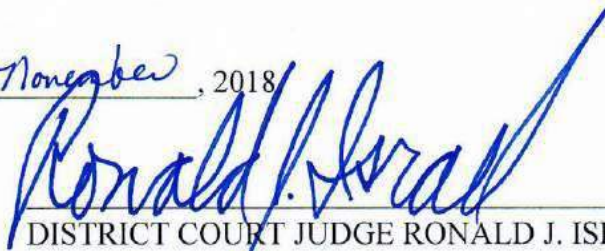
26 In light of the above findings and good cause appearing therefore, the Court orders as
27 follows:
28

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

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is
4 expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCPC
5 54(b).

6 IT IS SO ORDERED.

7 DATED this 20 day of November, 2018

8 
9 _____
DISTRICT COURT JUDGE RONALD J. ISRAEL _{4F}

10 Case No. A-18-772715-C
11 Order Granting Motion for Entry of Final Judgment and
12 Rule 54(b) Certification

13 Respectfully submitted by:

14 

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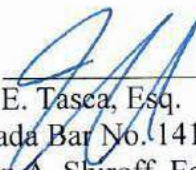
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1 Nev. R. Civ. P. 54(b) (emphasis in original). The court need not make findings of fact regarding
2 specific factors in order to grant certification. *See Mallin v. Farmers Ins. Exchange*, 106 Nev. 606,
3 609-10, 797 P.2d 978, 980-81 (1990) (upholding 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.¹ 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.² 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
23

24 ¹ 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).

² 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.³ 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).⁴ 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-

26 ³ 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 ⁴ 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.⁵

23 //

24 //

25 //

26
27 ⁵ 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.

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IV. CONCLUSION

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

Respectfully submitted this 25th day of September, 2018.

PETERSON BAKER, PLLC

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Telephone: 404.891.1402
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Attorneys for Plaintiff Steve Wynn

1 **CERTIFICATE OF SERVICE**

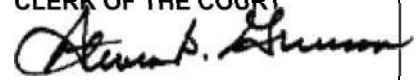
2 I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to
3 NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct
4 copy of the foregoing MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b)
5 CERTIFICATION to be submitted electronically for filing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



1 Joel E. Tasca
2 Nevada Bar No. 14124
3 Justin A. Shiroff
4 Nevada Bar No. 12869
5 BALLARD SPAHR LLP
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11 Email: shiroffj@ballardspahr.com

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

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

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

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

27 Defendants The Associated Press and Regina Garcia Cano (together, "AP" or
28 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").

//

//

1 MEMORANDUM OF POINTS AND AUTHORITIES

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

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

26 Under Nevada Supreme Court authority, those who submit police complaints
27 are entitled a privilege against defamation liability unless they *knowingly* make false
28 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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The AP Defendants respectfully submit 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 his own submissions clearly establish cannot succeed as a matter of law.

DATED this 10th of October, 2018.

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

1 CERTIFICATE OF SERVICE

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

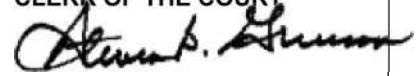
7 Tamara Beatty Peterson, Esq.
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12 L. Lin Wood, Esq.
13 Nicole J. Wade, Esq.
14 G. Taylor Wilson, Esq.
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17 Atlanta, GA 30309

18 *Attorneys for Plaintiff*

19 /s/ Sarah H. Walton
20 An Employee of Ballard Spahr LLP
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13 *Attorneys for Plaintiff Steve Wynn*

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702.786.1001

14
15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 STEVE WYNN, an individual,
18
19 Plaintiff,
20
21 v.
22 THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
23 individual; and HALINA KUTA, an
24 individual; DOES I-X,
25
26 Defendants.
27
28

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.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. DISCUSSION**

3 To rule on Mr. Wynn's¹ pending Motion, the Court need only read the AP Defendants' first
4 sentence of their Opposition, wherein the AP Defendants confirm they "**have no objection to the**
5 **entry of a final judgment against Mr. Wynn on his defamation claim arising from that news**
6 **report.**" (*See* Opp. at 2:2-5.) (emphasis added). Likewise, Defendant Kuta has not opposed Mr.
7 Wynn's Motion. The absence of any opposition from Defendant Kuta should "be construed as an
8 admission that the motion ... is meritorious and a consent to granting the same."² The Court can,
9 and should, grant Mr. Wynn's unopposed Motion.

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

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

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

² *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?³ 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 ³If 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.⁴

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 ⁴ 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.

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

Respectfully submitted this 30th day of October, 2018.

PETERSON BAKER, PLLC

By: /s/ Nikki L. Baker
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Facsimile: 404.506.9111

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 30th 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
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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

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 PLAINTIFF STEVE WYNN'S REPLY IN SUPPORT
20 OF MOTION FOR ENTRY OF FINAL JUDGMENT AND RULE 54(b) CERTIFICATION on
21 the day 30th of October, 2018, to the following address:

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

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

PETERSON BAKER, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

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

EVENTS & ORDERS OF THE COURT

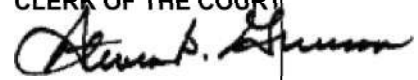
11/06/2018 **Motion** (9:00 AM) (Judicial Officer Israel, Ronald J.)
Motion for Entry of Final Judgment and Rule 54(b) Certification

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](#)



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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.

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

So anyway I'm granting 54(b).

MS. PETERSON: Thank you, Your Honor, –

MR. SHIROFF: Understood, Your Honor.

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

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

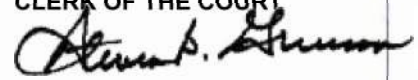
[Hearing concluded at 9:28 a.m.]

* * * * *

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



Judy Chappell
Court Recorder/Transcriber



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13 *Attorneys for Plaintiff Steve Wynn*

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

16 STEVE WYNN, an individual,
17 Plaintiff,

18 v.

19 THE ASSOCIATED PRESS, a foreign
20 corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
21 individual; DOES I-X,
22 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.

23
24 This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's
25 "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018
26 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson
27 Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,
28

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702.786.1001

11-15-18
28

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 NRCPP 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

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

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is
4 expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCPC
5 54(b).

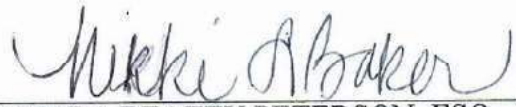
6 IT IS SO ORDERED.

7 DATED this 20 day of November, 2018

8 
9 _____

DISTRICT COURT JUDGE RONALD J. ISRAEL ^{4F}
Case No. A-18-772715-C
Order Granting Motion for Entry of Final Judgment and
Rule 54(b) Certification

10
11
12 Respectfully submitted by:

13 
14 _____

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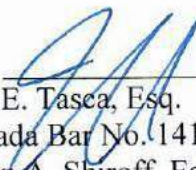
22 L. LIN WOOD, ESQ.
23 *(admitted pro hac vice)*
24 NICOLE JENNINGS WADE, ESQ.
25 *(admitted pro hac vice)*
26 JONATHAN D. GRUNBERG, ESQ.
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1 Reviewed and approved by:

2 BALLARD SPAHR LLP

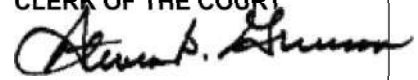
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4 By: 
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12 Washington, DC 20006
Telephone: 202.661.2200

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

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13 *Attorneys for Plaintiff Steve Wynn*

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

16 STEVE WYNN, an individual,
17
Plaintiff,
18 v.
19 THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
20 individual; and HALINA KUTA, an
individual; DOES I-X,
21
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**

23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

PETERSON BAKER, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

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

4 Respectfully submitted this 27th day of November, 2018.

5 PETERSON BAKER, PLLC

6
7 By: /s/ Tamara Beatty Peterson

8 TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
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18 Facsimile: 404.506.9111

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 NRCF 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 ENTRY OF ORDER GRANTING 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 27th day of November, 2018, to the following:

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

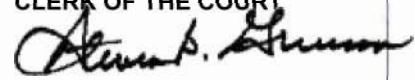
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bowmanchad@ballardspahr.com
BALLARD SPAHR LLP
1909 K Street, NW
Washington DC 20006
Attorneys for Defendants The Associated
13 *Press and Regina Garcia Cano*

14 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF**
15 **ENTRY OF ORDER GRANTING MOTION FOR ENTRY OF FINAL JUDGMENT AND**
16 **RULE 54(b) CERTIFICATION** to be served via U.S. Mail, postage prepaid, to those parties not
17 registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the
18 27th day of November, 2018, to the following address:

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

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

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Facsimile: 404.506.9111

13 *Attorneys for Plaintiff Steve Wynn*

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

16 STEVE WYNN, an individual,
17 Plaintiff,

18 v.

19 THE ASSOCIATED PRESS, a foreign
20 corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
21 individual; DOES I-X,
22 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.

23
24 This matter came before the Court on November 6, 2018, on Plaintiff Steve Wynn's
25 "Motion for Entry of Final Judgment and Rule 54(b) Certification" filed on September 25, 2018
26 ("Mr. Wynn's Motion"). Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of Peterson
27 Baker, PLLC., appeared on behalf of Plaintiff Steve Wynn ("Mr. Wynn"). Justin A. Shiroff, Esq.,
28

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702.786.1001

11-15-18
28

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 NRCPP 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.

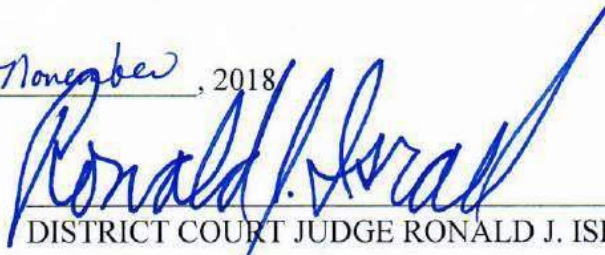
26 In light of the above findings and good cause appearing therefore, the Court orders as
27 follows:
28

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

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that final judgment is
4 expressly directed to be entered in favor of the AP Defendants and certified pursuant to NRCPC
5 54(b).

6 IT IS SO ORDERED.

7 DATED this 20 day of November, 2018.

8 
9 _____
DISTRICT COURT JUDGE RONALD J. ISRAEL ^{4F}

10 Case No. A-18-772715-C

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

13 Respectfully submitted by:

14 

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Attorneys for Plaintiff Steve Wynn

1 Reviewed and approved by:

2 BALLARD SPAHR LLP

3

4 By: 

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12 Washington, DC 20006

Telephone: 202.661.2200

13

14 *Attorney for Defendant The Associated Press and*

15 *Regina Garcia Cano*

16

17

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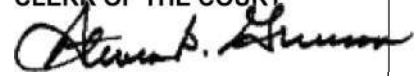
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24 *Attorneys for Plaintiff Steve Wynn*

25 **DISTRICT COURT**
26 **CLARK COUNTY, NEVADA**

27 STEVE WYNN, an individual,

28 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

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23 *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 **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 14th day of December, 2018, to the following:

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

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Washington DC 20006
Attorneys for Defendants The Associated
Press and Regina Garcia Cano

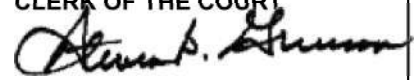
12 I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **NOTICE OF**
13 **APPEAL BY PLAINTIFF STEVE WYNN** to be served via U.S. Mail, postage prepaid, to those
14 parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System
15 on the 14th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

EXHIBIT 1

EXHIBIT 1



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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)
corporation; REGINA GARCIA CANO, an)
15 individual; and HALINA KUTA, an)
individual; DOES I-X,)
16 Defendants.)
17

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.

///

///

///

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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
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11 *Attorneys for Defendants*
12 *The Associated Press and Regina Garcia*
13 *Cano*

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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.
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11 1001 Park Run Drive
12 Las Vegas, NV 89145

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19 *Attorneys for Plaintiffs*

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

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EXHIBIT 1

EXHIBIT 1

1 JUDGE RONALD J. ISRAEL
2 EIGHTH JUDICIAL DISTRICT COURT
3 DEPARTMENT 28
4 Regional Justice Center
5 200 Lewis Avenue, 15th Floor
6 Las Vegas, Nevada 89155

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 STEVE WYNN, an individual

9 Plaintiff,

10 v.

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

15 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

16
17
18 ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND
19 REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS

20 This matter came before the Court on Defendants The Associated Press
21 ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the
22 "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint
23 pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18,
24 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in
25 support of their Motion on August 7, 2018.

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

No. 77708

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.

Electronically Filed
May 08 2019 03:34 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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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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.

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THE COURT: I guess I didn't state that.

Okay. Thank you.

MR BROWN: Thank you, Your Honor.

MR. WOOD: Thank you, Your Honor.

THE CLERK: So the motion is granted?

THE COURT: Yes, the motion -- although the motion doesn't talk about the bifurcation per se, the motion is granted as to the stipulation that only the first part would be decided today.

Okay.

MR BROWN: Thank you, Your Honor.

MR. SHIROFF: Thank you, Your Honor.

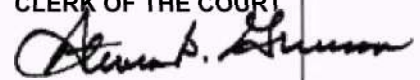
[Proceeding concluded at 9:46 a.m.]

* * * * *

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



Brittany Mangelson
Independent Transcriber



1 JUDGE RONALD J. ISRAEL
2 EIGHTH JUDICIAL DISTRICT COURT
3 DEPARTMENT 28
4 Regional Justice Center
5 200 Lewis Avenue, 15th Floor
6 Las Vegas, Nevada 89155

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 STEVE WYNN, an individual
10 Plaintiff,

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

11 v.

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

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

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

23 This matter came before the Court on Defendants The Associated Press
24 ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the
25 "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint
26 pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18,
27 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in
28 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,


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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*



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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:



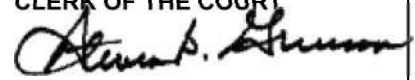
JUDICIAL EXECUTIVE ASSISTANT
SANDRA JETER
A-18-772715-C

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(s) v...		Other Tort
1	▼ Party: Steve Wynn - Plaintiff				1 - 1 of 1 items
		20	items per page		
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	▶ 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*

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)
corporation; REGINA GARCIA CANO, an)
15 individual; and HALINA KUTA, an)
individual; DOES I-X,)
16 Defendants.)
17

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
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1 Dated: August 23, 2018.

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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.
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11 1001 Park Run Drive
12 Las Vegas, NV 89145

13 L. Lin Wood, Esq. (pro hac pending)
14 Nicole J. Wade, Esq. (pro hac pending)
15 G. Taylor Wilson, Esq. (pro hac pending)
16 L. LIN WOOD, P.C.
17 1180 West Peachtree Street, Suite 2400
18 Atlanta, GA 30309

19 *Attorneys for Plaintiffs*

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

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

EXHIBIT 1

EXHIBIT 1

1 JUDGE RONALD J. ISRAEL
2 EIGHTH JUDICIAL DISTRICT COURT
3 DEPARTMENT 28
4 Regional Justice Center
5 200 Lewis Avenue, 15th Floor
6 Las Vegas, Nevada 89155

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 STEVE WYNN, an individual

9 Plaintiff,

10 v.

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

15 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

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

20 This matter came before the Court on Defendants The Associated Press
21 ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the
22 "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint
23 pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18,
24 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in
25 support of their Motion on August 7, 2018.

26 On August 14, 2018, the Court heard oral argument on the Motion. L. Lin
27 Wood, Esq. of L. Lin Wood, P.C., and Tamara Beatty Peterson, Esq., and Nikki L.
28 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,

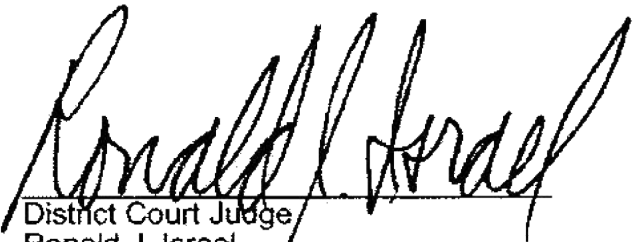
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ORDER


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



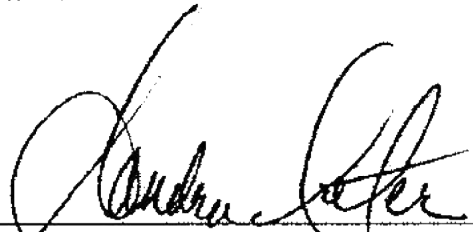
District Court Judge
Ronald J. Israel
Case No. A-18-772715-C
*Order Granting Defendant's The Associated Press
And Regina Garcia Cano's Special Motion To
Dismiss*



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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:

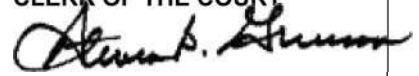


JUDICIAL EXECUTIVE ASSISTANT
SANDRA JETER
A-18-772715-C

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(s) vs...		Order Form
	▼ Party: Steve Wynn - Plaintiff				
1		20	items per page		1 - 1 of 1 items
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	JUSTIN A. SHIROFF, ESQ.			shiroff@ballardspahr.com	
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	▶ Party: Halina Kuta - Defendant				
	▶ Other Service Contacts				
1		10	items per page		1 - 5 of 5 items



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24 *Attorneys for Plaintiff Steve Wynn*

25 **DISTRICT COURT**

26 **CLARK COUNTY, NEVADA**

27 STEVE WYNN, an individual,
28 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").

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

Respectfully submitted this 25th day of September, 2018.

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Attorneys for Plaintiff Steve Wynn

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 25th day of September, 2018.

PETERSON BAKER, PLLC

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Attorneys for Plaintiff Steve Wynn

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

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

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

8 At the hearing held on August 14, 2018, the Court issued an oral pronouncement on the AP
9 Defendants' anti-SLAPP Motion. The Court ultimately wrote its anti-SLAPP Order, entered on
10 August 23, 2018, dismissing with prejudice the Complaint as to the AP Defendants. (*See* anti-
11 SLAPP Order at 4:2-4.) Citing to Nevada's anti-SLAPP statute (NRS 41.660(3) and NRS
12 41.637(4)), the Court found that the AP Article "fairly reported" the information in Defendant
13 Kuta's police report for two reasons: (1) the AP Article states the information was obtained from
14 the police report; and (2) the police report "did not provide the names of the complainants." (*See*
15 anti-SLAPP Order at 3:16-23.) The Court concluded that the AP Article "accurately described the
16 Police reports, and therefore, the privilege is absolute." (*Id.* at 3:24-25.) The Court determined
17 that the "Nevada fair reporting privilege applies to the news report at issue" and that the Nevada
18 anti-SLAPP statute "applies in this case." (*Id.* at 3:24-28.)

19 **III. DISCUSSION**

20 A party wishing to immediately appeal an order dismissing fewer than all the parties must
21 obtain an express determination of "final judgment" from the district court under Nev. R. Civ. P.
22 54(b), which provides in pertinent part:

23 **Judgment Involving Multiple Parties.** When multiple parties are
24 involved, the court may direct the entry of a final judgment as to one or
25 more but fewer than all of the parties only upon an express determination
26 that there is no just reason for delay and upon an express direction for the
27 entry of judgment.
28